

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Civil Action No. 5:12-CV-00610-F

C O P Y

CITY GRILL HOSPITALITY GROUP, INC.,)
)
Plaintiff,)
)
vs.)
) D E P O S I T I O N
NATIONWIDE MUTUAL INSURANCE COMPANY,)
)
Defendant.)
- - - - -)

L. HENRY MARTINI, P.E.

One West Fourth Street
Winston-Salem, North Carolina

Tuesday, August 20, 2013
10:12 o'clock a.m.

Atlantic Professional Reporters
Winston-Salem, NC 27116-1672

NOTES

[illegible]

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1 STIPULATIONS

2 Pursuant to notice and/or consent of the
3 parties, the deposition hereon captioned was
4 conducted at the time and location indicated before
5 Cassandra J. Stiles, Notary Public in and for the
6 County of Forsyth, State of North Carolina at Large.

7 The deposition was conducted for use in
8 accordance with and pursuant to the applicable rules
9 or by order of any court of competent jurisdiction.

10 Reading and signing of the testimony was
11 requested prior to the filing of same for use as
12 permitted by applicable rule(s).

1 The witness, L. HENRY MARTINI, P.E. being
2 first duly sworn to state the truth, the whole truth
3 and nothing but the truth, testified as follows:

4 (10:12 o'clock a.m.)

5 EXAMINATION

6 BY MR. WIGGINS:

7 Q. Good morning, Mr. Martini. Again, I'm
8 Richard Wiggins. We just met. I think we met about
9 last November at the site in Fayetteville. Is that
10 correct?

11 A. Yes.

12 Q. You're here today for us to take your
13 deposition as an expert.

14 Do you understand that?

15 A. Yes.

16 Q. This isn't going to be a completely
17 arduous exercise for you this morning, and just want
18 to find out your findings and what you did in
19 relation to this fire that occurred back in January
20 24th, 2012.

21 You understand that?

22 A. Yes.

23 Q. Have you had your deposition taken before?

24 A. Yes, I have.

25 Q. Many times?

1 A. A few.

2 Q. A few times. So you understand the drill.

3 The only thing I would just say very
4 briefly is, if you want to take a break any time,
5 please let me know or let Rachel know and we'll be
6 glad to accommodate you. This isn't a -- a relay
7 race of any kind, and we've got plenty of time to get
8 this done.

9 A. My last -- my last one was 10 hours, so...

10 Q. This will not be 10 hours, I can assure
11 you.

12 And again, it's so easy to shake your head
13 affirmatively rather than saying verbally yes or no,
14 and if you'll make sure you answer verbally to every
15 question.

16 And if I ask a question and you don't
17 understand what I'm asking, please ask me to repeat
18 it, because, unfortunately, I have a habit of asking
19 questions sometimes that don't make good sense even
20 to me.

21 Just so we're on the same sheet of music,
22 is that okay? Is that fair?

23 A. Sure.

24 Q. Very good.

25 Where do you -- where do you live, Mr.

1 Martini?

2 A. I live in Greenville, South Carolina.

3 Q. Okay, and you're associated with Donan?

4 Is that correct?

5 A. Yes, that's correct.

6 Q. And what is the -- what is the legal name
7 of that company?

8 A. Donan Engineering Company, Incorporated.

9 Q. And where is it -- where is the main
10 office or the home office of that company?

11 A. It's based out of Louisville, Kentucky.

12 Q. And do they have more than one office, I
13 take it?

14 A. Yes.

15 Q. And how many offices does Donan have?

16 A. I don't have the specific number in my
17 head.

18 Q. But many offices around the country?

19 A. Mostly located in the eastern half of the
20 country at this time.

21 Q. Okay, and how long have you been with
22 Donan?

23 A. Umm, will be three years in October.

24 Q. Okay, and before that what were you doing?

25 A. I worked for Unified Investigations.

1 Q. And what did you do with Unified
2 Investigations?

3 A. Same type of work.

4 Q. Engineering-type work?

5 A. Yes.

6 Q. And go ahead and give me your educational
7 background as you can recall it.

8 A. Sure. I attended the University of
9 Central Florida in Orlando, Florida, from -- do you
10 want time periods as well?

11 Q. Yes, please.

12 A. 1976 through 1981. Bachelor of science in
13 engineering with a major in electrical engineering.

14 Q. Okay.

15 A. I'll just progress up from there.

16 Q. Sure.

17 A. My first job after that was with
18 Underwriter's Laboratories in Tampa, Florida, their
19 Tampa office. That was from 1981 to 1986. I was one
20 of their project engineers evaluating products to
21 their standards, and did some work with standards
22 writing as well.

23 Q. Okay.

24 A. Following that I did some consulting work
25 for manufacturers seeking to obtain UL approval on

1 their products.

2 I worked for a company, Engineering
3 Assessments, in the late eighties for a couple of
4 years. That was my first work in the forensic field.

5 Following that I worked in Jacksonville,
6 Florida, for nine or 10 years with the Hunter
7 Lighting Group, which was the lighting division of
8 the Hunter Fan Company, as their engineering manager.

9 Q. Hunter what kind of company -- fan?

10 A. Lighting.

11 Q. Lighting company?

12 A. Lighting was one of the products I worked
13 at -- I dealt with at -- at UL.

14 Q. Okay.

15 A. And so I was in charge of all their
16 product safety evaluations and submittals, ULCSA, and
17 quality control, both on the receiving end and
18 manufacturing end, addressing any problems that came
19 up. Addressed problems that reported from the field
20 with their products, and a little bit in the product
21 design aspect as well with regards to safety.

22 Q. Okay.

23 A. That takes us up through 1999.

24 Following that I went to work with
25 Applications Engineering Group in Atlantic Beach,

1 Florida, doing forensic work full time.

2 Q. And then Donan?

3 A. Applications Engineering Group was '99
4 through 2009, nine -- nine years -- and then a couple
5 years with Unified and then Donan.

6 Q. Okay, UL Laboratories, that was in
7 Florida?

8 A. Yes.

9 Q. And you were testing similar products for
10 safety issues?

11 Is that what you were doing?

12 A. The majority of my work was in the fan and
13 lighting group, not the product groups.

14 Q. Is the CV that's attached to your latest
15 report, is that current?

16 A. It's current. It doesn't go back -- that
17 far back as what we covered just now.

18 Q. Okay.

19 A. But ---

20 Q. --- Pretty current ---

21 A. --- It's otherwise current.

22 Q. In preparation for your testimony today,
23 have you read any documents, any type of depositions
24 or anything in preparation?

25 A. Depositions I was provided are -- were

1 listed in my report. The only -- I've looked at two
2 since then, which was Mr. Stone's and Mr. Booth's.

3 Q. And when did you read Mr. Booth's
4 deposition?

5 A. That would have been last night.

6 Q. Okay, and did you talk to anyone in
7 preparation for your deposition here today -- Mr.
8 Lacy or anyone in connection with Donan?

9 A. I saw Mr. Lacy yesterday, and we didn't
10 discuss really anything about the case. We -- we met
11 here for a pre-deposition meeting.

12 Q. And that was yesterday?

13 A. Yes.

14 Q. When you came to work for Donan, was Mr.
15 Lacy already there?

16 A. Yes, he was.

17 Q. And how long had he been with -- with
18 Donan?

19 A. I don't recall his exact start date.

20 Q. Do you know what his title is with Donan?

21 A. Other than fire investigator, no.

22 Q. Who is your immediate supervisor?

23 A. Michael Spensieri.

24 Q. Is he an engineer also?

25 A. Yes.

1 Q. Is his -- is the organization of Donan
2 divided in separate compartments, such as
3 investigation, origin and cause, investigation,
4 engineering, etcetera, etcetera?

5 A. Just during this year they -- they split
6 the engineering and fire investigation groups.

7 Q. And so prior to that it was all
8 integrated? Would that be correct?

9 A. Yes.

10 Q. Okay, and do you know when Mr. Lacy came
11 to work for Donan?

12 A. I don't specifically recall that.

13 Q. Is he your supervisor in any respect
14 whatsoever?

15 A. Mr. Lacy?

16 Q. Uh-huh.

17 A. No.

18 Q. Does he work in a separate area now at
19 Donan from where you work at Donan?

20 A. Well, again, he would have worked under
21 the fire investigation group, and I'm on the -- in
22 the engineering group.

23 Q. Okay, and what is your background as far
24 as fire investigations is concerned?

25 A. I've been investigating fires or assisting

1 in fire investigations for coming up on 15 years.

2 Q. Okay, in all the jobs that you've had, has
3 that been one of the duties that you've been involved
4 in?

5 A. All the jobs?

6 Q. Or most of the jobs.

7 A. Well, in my previous work I was working on
8 the product design and manufacturing side on product
9 issues.

10 And then on the forensic side I'm working
11 on the other end of the spectrum, after the product
12 has failed, trying to figure out why it failed.

13 And so my career has probably been split
14 roughly half and half between the two.

15 Q. When you were working on products trying
16 to determine what caused them to fail, what kind of
17 products were they?

18 A. Caused them to fail?

19 Q. Yeah. You were -- you said that one of
20 the things that you did in some of the jobs that you
21 held was determine what products might have failed or
22 what caused them to fail.

23 MS. DALY: Objection to form.

24 Q. (Mr. Wiggins) Do you understand what I'm
25 asking?

1 A. Well, it -- it sounds kind of vague to me,
2 but we can break it down.

3 Q. Okay. Okay, what I'm asking is you said
4 that you had worked in the electrical field in
5 examining appliances or electrical items that might
6 have failed. Is that correct?

7 A. Yes.

8 Q. And part of that -- part of your job was
9 to determine why they failed.

10 A. Yes.

11 Q. And I was asking what kind of products did
12 you examine to determine what might have caused its
13 failure.

14 A. Okay. In the -- taking it back to UL, we
15 -- we tested products basically for safety issues and
16 fire issues, seeing that they had met our
17 requirements. So that's not specifically looking at
18 products that had failed, but seeing if it holds up,
19 and if it does fail, why.

20 Looking at why something has failed is
21 typically on the forensic side, and in that case it's
22 been everything you can imagine -- if it's electrical
23 in nature, appliances, components, you name it, I've
24 probably seen it over the years.

25 Q. Okay, and household -- household

1 appliances you looked at, I guess, over the years ---

2 A. --- Oh, yeah.

3 Q. --- That might have failed ---

4 A. --- Yes.

5 Q. --- From as small as a computer to as
6 large as a refrigerator, I suppose?

7 A. Sure. My wife is afraid to leave anything
8 plugged in at this point.

9 Q. Okay. The depositions that you said that
10 you reviewed was the deposition of Dimitrios
11 Diamantopoulos. Is that correct?

12 A. Yes.

13 Q. Mr. Zachary Lapene -- do you recall that
14 deposition?

15 A. Not specifically, but if I put it down, I
16 read it.

17 Q. He was the guy who had the motorcycle shop
18 ---

19 A. --- Oh, yeah, uh-huh.

20 Q. --- Next to the Miami Sub's building.

21 A. Yes.

22 Q. Deposition of Mr. Dowlat Sh Ahi, do you
23 remember that one?

24 A. He installed the surround system?

25 Q. Right.

1 A. Uh-huh.

2 Q. And the videos of Jimmy Diamantopoulos,
3 volumes one and two, do you recall reading those?

4 A. Yes.

5 Q. And then the examination under oath of
6 Victoria Moon, she was the night manager at Miami
7 Subs.

8 A. Yes.

9 Q. Do you recall that?

10 A. Yes.

11 Q. And the examination of Takis Michalos, do
12 you recall that one? He was one of the owners of the
13 Miami Subs franchise.

14 A. Yes.

15 Q. The photographs you said you looked at was
16 all the photographs of the property, the fire scene,
17 laboratory examination.

18 And when you speak of laboratory
19 examination, that was the one that was done in
20 Raleigh? Is that correct?

21 A. Yes.

22 Q. And the compensation rate you say is 165
23 per hour for engineering work and 225 per hour for
24 deposition-trial testimony.

25 Have you billed Nationwide for your

1 services to this point in time?

2 Do you know what they -- and do you know
3 what they are?

4 MS. DALY: Objection to form.

5 THE WITNESS: I bill ---

6 Q. (Mr. Wiggins) --- Have you billed them?

7 A. I -- I bill my time on a daily basis, but
8 beyond that I don't know anything else about it.

9 Q. Do you bill it through -- you bill it
10 through Donan?

11 A. Yes.

12 Q. And they would have been the ones who
13 would have billed for your work? Is that correct?

14 A. That is correct.

15 Q. Do you know what they've bill for your
16 work for this -- to this point in time?

17 A. I do not.

18 Q. One of the -- you've listed in your CV
19 your continuing education courses you've taken, and
20 one of those is in 2006, Principles of Electrical
21 Fires by Vytenis Babrauskas, PhD, Central Texas Fire
22 Investigator Association, annual conference, Austin,
23 Texas.

24 Do you recall that conference?

25 A. Yes.

1 Q. Tell me about Mr. Babrauskas.

2 Do you consider him to be an expert in the
3 field?

4 A. I do.

5 Q. Have you taken other courses that he might
6 have taught over time?

7 A. I wish there were more to take.

8 Q. Okay.

9 A. But no, I haven't.

10 Q. Is he somewhat considered the preeminent
11 authority in that -- in that field?

12 MS. DALY: Objection to form.

13 THE WITNESS: Yes. He's done a lot
14 of work related to electrical causation of fires.

15 Q. (Mr. Wiggins) And have you ever submitted
16 any articles for his review or done any writing that
17 he has looked at?

18 A. No.

19 Q. Have you written any articles relative to
20 your field?

21 A. No.

22 Q. Pardon?

23 A. No.

24 Q. And you've also listed courses, taught in
25 electrical and gas appliance inspections in 2003, and

1 in 2005, electrical and gas appliance inspections.

2 Has that been somewhat an area that you've
3 become interested in over the years?

4 A. Well, it's what I do.

5 Q. Pardon me? That's what you do?

6 A. That's what I do.

7 Q. Well, electrical and gas appliance
8 inspections particularly is what I'm asking.

9 MS. DALY: Objection to form.

10 THE WITNESS: That -- that course
11 covered part of what I do. Basically, the appliance
12 portion in it was for fire investigators and
13 insurance adjusters.

14 Q. (Mr. Wiggins) And do you work with
15 insurance adjusters on a regular basis in your work?

16 A. Yes.

17 Q. When did you first learn about the fire at
18 the Miami Subs Restaurant in Fayetteville, North
19 Carolina?

20 A. I don't know that I would know the
21 specific date, but typically what happens is Mr. Lacy
22 would contact me to check my availability for a given
23 fire that he's -- he's investigating, and then we set
24 up a mutually agreeable date and time and we meet.

25 Q. Are you qualified as an origin -- origin

1 and cause investigator?

2 A. Actually I am, yes.

3 Q. You are.

4 And do you have the same expertise in that
5 area as Mr. Lacy would have?

6 A. I don't specifically do origin and cause
7 work. The reason I invested the time to learn that
8 aspect of it is to make sure that I have to build a
9 -- look at a -- a fire scene in the big picture.

10 So if you bring me a handful of things
11 that were from a fire scene, and I pick up one and I
12 say, yeah, it looks like it may have caused the fire.
13 Well, if it turns out it was from two rooms away, you
14 know, I have to -- I -- I like to be able to
15 understand what -- what they know and what they're
16 seeing and be able to question them if I -- I think
17 ---

18 Q. --- Okay.

19 A. --- You know, I just need to be able to
20 understand it. That's why I got that.

21 Q. Okay. This fire occurred on January the
22 24th of 2012, and Mr. Lacy, I think, was contacted
23 maybe on at least a day after that, maybe the 25th,
24 26th of 2012.

25 MS. DALY: Objection to the form of

1 the question.

2 Q. (Mr. Wiggins) Do you recall talking to
3 Mr. Lacy about this fire on or about that period of
4 time?

5 A. If I remember correctly, I believe he
6 called me from the scene. He -- he did his
7 investigation and he called me and said, I need you
8 to come look at some things at this -- this fire
9 loss, when are you available, and then went from
10 there.

11 Q. And do you know what -- do you have any
12 notes that would indicate what date that was?

13 A. I believe he -- I'd say he called me from
14 his first time out there.

15 Q. Do you have -- did you make any notes of
16 your investigation when you went to the scene on the
17 30th of January, 2012?

18 A. Sure.

19 Q. Do you have those notes with you?

20 MS. DALY: Mr. Wiggins, they're
21 being copied right now.

22 MR. WIGGINS: Okay.

23 MS. DALY: Apparently -- can we go
24 off the record?

25 Thank you.

1 (10:32-10:45 a.m. - recess)

2 Q. (Mr. Wiggins) Mr. Martini, I -- excuse
3 me, I've got a piece of candy in my mouth.

4 You were retained on or about the 30th of
5 January 2012? Is that correct?

6 A. Yes. Like I say, it would have been
7 probably a few days earlier when Mr. Lacy called me.

8 Q. I'm sorry?

9 A. It would have been a few days prior when
10 Mr. Lacy first contacted me.

11 Q. Okay, and after Mr. Lacy contacted you,
12 were you contacted by anybody from Nationwide?

13 A. No.

14 Q. Did you ever talk with anyone from
15 Nationwide?

16 A. (No response)

17 Q. Again, let me -- let me to back.

18 In reference to your being retained to --
19 as an engineer to conduct an examination of the Miami
20 Subs building in Fayetteville.

21 A. In reference to being retained, no.

22 Q. Okay, and when was the first day you went
23 to Fayetteville to visit the Miami Subs building?

24 A. Around January 30th.

25 Q. Of 2012?

1 A. 2012, yes.

2 Q. Okay, who was there when you -- did you go
3 -- I'm going to strike that.

4 Did you go with Mr. Lacy or did you go by
5 yourself?

6 A. Mr. Lacy was present.

7 Q. And did he drive you to Fayetteville or
8 did you drive him to Fayetteville?

9 A. We met there.

10 Q. You met there, so you didn't come
11 together?

12 A. No.

13 Q. Who else was there when you got to the
14 Miami Subs building?

15 A. I believe -- I believe the owner let us
16 in, and I believe someone from Nationwide was there
17 just surveying the scene, I think, doing inventory
18 and such.

19 Q. Do you recall anyone else there?

20 The SBI agent, was he there?

21 MS. DALY: Objection to form.

22 Are you talking about when he arrived?

23 Q. (Mr. Wiggins) When you arrived.

24 A. Mr. Royal -- he -- he showed up later in
25 the day.

1 Q. Okay.

2 A. At the end of the day.

3 Q. And was there anyone there from the
4 Fayetteville Police Department?

5 A. Not that I recall.

6 Q. At what time of day did you arrive there
7 at the Miami Subs building?

8 A. I believe that would have been probably
9 about nine o'clock.

10 Q. And was Mr. Lacy there when you got there?

11 A. Yes, I believe he was.

12 Q. And what did you understand precisely your
13 assignment to be in reference to being retained by
14 Nationwide Insurance Company?

15 A. My assignment was to identify all
16 potential electrical sources of ignition for the fire
17 and to determine if any of those played a role in
18 causing the fire.

19 Q. And was it also your obligation to rule
20 out any items that you thought would not have been a
21 cause of the fire?

22 MS. DALY: Objection to form.

23 THE WITNESS: Sure. I mean, that's
24 part of the process. Identify it, examine it and
25 rule it in or rule it out, or undetermined.

1 Q. (Mr. Wiggins) Okay, and what was Mr.
2 Lacy's role in reference to this fire at the Miami
3 Subs Restaurant?

4 A. Primarily his -- his task was to identify
5 the origin of the fire, where the fire started.

6 Q. And let me just -- I want to be clear
7 about this.

8 That was not your obligation or your duty.
9 Is that correct?

10 A. That is correct.

11 MS. DALY: Thank you.

12 MR. WIGGINS: Is that it?

13 MS. DALY: Yes, sir.

14 MR. WIGGINS: Thank you.

15 MS. DALY: You're welcome.

16 Q. (Mr. Wiggins) And you would -- would you
17 defer to Mr. Lacy for any of the investigation that's
18 related to the origin or cause of this fire?

19 MS. DALY: Objection to form.

20 Q. (Mr. Wiggins) Except for the particular
21 electrical area that you were involved in.

22 A. Yes.

23 Q. And did you attempt to perform the same
24 duties that he would have performed as an origin and
25 cause investigator in this fire?

1 MS. DALY: Objection to form.

2 THE WITNESS: No.

3 Q. (Mr. Wiggins) And was his ---

4 A. --- At least as far -- as far as
5 determining the area of origin?

6 Q. Yes, the area of origin.

7 A. Okay. Yeah, same answer.

8 Q. And the scope of your duties in reference
9 to your investigation would have been electrical
10 issues to rule out those matters that might have or
11 could have caused a fire by use or by malfunction of
12 electrical -- electrical issue?

13 MS. DALY: Objection to form.

14 THE WITNESS: That's correct.

15 Q. (Mr. Wiggins) I have your notes before me
16 here and I would have the same problem with these
17 that Rachel had with those of Mr. Booth in trying to
18 read them.

19 A. I understand that.

20 Q. At the top of the page you've got a number
21 36-12010020-0. What is that?

22 Is that some kind of identifying number?

23 A. That would be our company's file number.

24 Q. Okay, and below that you have a -- I take
25 it it's a date. Is it 6 -- I can't....

1 A. That's an '05.

2 Q. I'm sorry?

3 A. I think that's an '05 -- 6-05 -- 0-5.

4 Q. Is that a date?

5 A. Yes.

6 Q. Okay, and what does that date reference?

7 A. That's the date I would have made the
8 notes or sketches that are applicable.

9 Q. Is this -- now, let's see, where would the
10 first note be? Have I got this backwards? Does it
11 start at the very back?

12 Is that the first notes you made?

13 A. I think the first -- or the earliest notes
14 that you're going to find in here are dated November
15 29th.

16 Q. Okay.

17 A. I did make some sketches on January 30th.
18 I was not able to locate them, and I recreated them
19 on the 29th.

20 Q. I'm sorry. What page would that be on?
21 The second page I see a ---

22 A. --- All right.

23 MS. DALY: It's the second page.

24 THE WITNESS: Anything with 11-29.

25 MR. WIGGINS: Okay.

1 MS. DALY: And they continue for
2 several drawings.

3 Q. (Mr. Wiggins) Okay, so all of these notes
4 would have been made on 11-29? Is that correct, Mr.
5 Martini?

6 A. The ones with that date, yes.

7 Q. Let's see, 11-29, 11-29, and then the
8 third page, Mr. Dowlat -- Bob Dowlat notes, when were
9 they made? I do not -- I don't see a date on there.

10 A. Yeah, some of those were just when I was
11 reviewing depositions or EUO's. They're just -- just
12 some notes.

13 Q. And then the next is 4-17-13. That would
14 have been this year. Is that correct?

15 A. Yes.

16 Q. And then the next page, where we talk
17 about the IME, Ion IQ, do you see that page?

18 A. Yes.

19 Q. And that was made -- those notes were made
20 in what -- on what date? Do you recall?

21 A. Not specifically. That's kind of a
22 running -- looking for details on the wireless
23 device, and then some notes about a deposition, and
24 then more notes where I contacted the manufacturer.

25 Q. Okay.

1 A. There's a date next to that of 6-17-13.

2 Q. And that would have been -- that would
3 have been more than a year after the fire. Is that
4 not correct?

5 A. Correct. This was in the last few months
6 leading up to today.

7 Q. And then the -- that next page is 11 --
8 you've got a date on it 11-29-2012, and it has a
9 drawing on there.

10 Was that when you visited the Miami Subs
11 building in November of 2012?

12 A. Yes.

13 Q. Okay, and then beside that it's got
14 another date, 10-23-09.

15 What is that?

16 A. It says Miami Subs filed a claim against
17 PWC for surge damage to various equipment.

18 Q. Okay, and then April the 19th, 2010, Miami
19 Subs report....

20 A. Reported break-in, theft, vandalism,
21 etcetera.

22 Q. And then it's got to May 31, 2011.

23 A. Renovation.

24 Q. Renovation. Okay.

25 A. And then fire in January.

1 Q. And then there's a drawing on this page
2 also, and this -- the electrical room, the office of
3 the Miami Subs building -- is that what this is?

4 (Witness examined document)

5 A. Yeah, that's an overview of where power is
6 coming in from the transformers near the building,
7 underground feed to the outside panel into the
8 electrical room and the office. Just general
9 orientation.

10 Q. And then the next page is a continuation
11 of that same investigation or visit that you made to
12 Miami Subs on 11-29-2012?

13 (Witness examined document)

14 A. That's my review of the breaker panels in
15 their electrical room.

16 Q. And this was done on November 29th, 2012?

17 A. Yes.

18 Q. And again there is a sketch, and this
19 shows the main panels, electrical panels, of the
20 Miami Subs building, and it's got CB Panel A -- C --
21 well, turned this upside down here -- CB panel C, CB
22 panel B.

23 And there were -- those were all located
24 in different locations in the building. Is that
25 correct?

1 A. The panels?

2 Q. Yeah, the panels. Yes.

3 A. They were located within the area that's
4 sketched.

5 (Witness examined document)

6 A. This is the layout of the electrical
7 panels, the circuit breaker panels. That's what CB
8 is.

9 Q. Okay.

10 A. That was a layout of those four panels --
11 five panels in that room.

12 Q. And this is the rear -- you've got it
13 here, rear entrance?

14 A. Rear exterior walls ---

15 Q. --- Walls.

16 A. --- Side exterior wall.

17 Q. I -- I just can't get oriented.

18 Where is the wall where the panel C and B
19 is located? Where are they?

20 A. If you look at it -- if you look at it
21 this way, rear exterior wall. I think, if you're
22 looking at the -- compare that to the previous
23 sketch.

24 Q. Okay.

25 A. So that the rear -- if I can lean over --

1 the back of the building, what I would have called a
2 rear exterior wall ---

3 Q. --- Okay, I got you. Okay.

4 A. There's a wall here.

5 Q. I understand.

6 A. So that -- that's the orientation. This
7 is just a closer view of -- of that.

8 Q. And then on this next page, this panel C
9 and B would be the exterior wall also?

10 A. That would be the -- the front side.

11 Q. Right here?

12 A. Yes.

13 Q. Inside the building?

14 A. Yes.

15 Q. Okay, now I understand.

16 A. Such that if you take this -- this now is
17 in the same orientation as that.

18 Q. Okay. And then the next entry date is
19 4-17-13, and this says joint lab inspections of
20 collected evidence, and it says on the back, evidence
21 collected in -- can't read the next word.

22 A. I see evidence collected in -- in January
23 by Lacy.

24 Q. Okay. By Lacy.

25 And then there's one through seven. Is

1 this the evidence that was collected by Mr. Lacy that
2 was delivered to the PWC engineer in Raleigh in April
3 of 2013?

4 A. Yes.

5 Q. And that would have been a sample -- I'm
6 sorry. Again, I can't read -- can you read....

7 A. Yeah. A sample can.

8 Q. X-rayed for -- again....

9 (Witness examined document)

10 A. X-rayed from above can and probably side,
11 and I left out side.

12 Q. Okay.

13 A. John Cavaroc x-rayed the can prior to us
14 opening it.

15 Q. Who did?

16 A. John Cavaroc.

17 Q. And then the next entry is -- I can't read
18 -- the ups?

19 A. Cups.

20 Q. Cups.

21 A. Three is plates.

22 Q. Okay.

23 A. Four is plastic container labeled gas.

24 Q. Okay.

25 A. Five and six were the hard drives, and

1 then number seven was the cloned copies of the
2 drives.

3 Q. Okay, and let's go back and look at these
4 as you've given them to me.

5 The sample can, that was a can that was
6 just found in the restaurant by Terry Lacy?

7 Is that what -- what that is?

8 A. No, that was a can of debris that he
9 collected.

10 Q. And what -- would that have been debris
11 that was found at or about the place where he
12 identified the area of origin of the fire?

13 A. Yes.

14 Q. And did you yourself investigate or look
15 at that material?

16 A. We -- we all did.

17 Q. And how did you -- how did you examine it,
18 by what means?

19 A. First it was x-rayed, and then we all
20 looked at the x-rays. And then we began with opening
21 the contents, spread it on the table, everybody had
22 the opportunity to sift through it and look at it.

23 Q. Tell me about x-rays.

24 Is that a common form of investigating
25 various items found in a fire to determine any

1 defects or any problems there might have been with a
2 -- with an item?

3 A. It's the first step because it's
4 non-destructive.

5 And often -- and after the residue of a
6 fire, frankly sometimes we just end up with a big
7 melted blob. And rather than spending three days
8 chipping away at it, the easiest thing to start with
9 is just take an x-ray and see if there's anything
10 worthwhile inside to -- to take a closer look at.

11 Q. And that would have been the material that
12 is item number one there that Mr. Cavaroc x-rayed?

13 A. Yes.

14 Q. And did it reveal anything of interest?

15 A. No.

16 Q. Could you identify what it was?

17 A. I'd have to look at my photos to see
18 specifically what was in there. There's nothing
19 remarkable.

20 Q. And then number two was cups, number three
21 was plates.

22 Were these cups and plates non-consumed by
23 fire?

24 A. Correct.

25 Q. And do you know where they came from --

1 where Mr. Lacy obtained those from?

2 A. I think that was all photographed and
3 documented, yes.

4 Q. Okay, did you have photographs showing
5 those cups or those plates?

6 A. When they were collected or at the lab?

7 Q. At the lab.

8 A. Yes.

9 Q. And then next is a plastic container of
10 gas with a gas label on it.

11 That was also looked at and examined by
12 everyone who was present there at that examination?

13 A. Correct.

14 Q. And what was the interest in that can?

15 A. Just unusual to find a can labeled gas in
16 a restaurant.

17 Q. Was there -- was there in fact gas in the
18 can when you looked at it or had it be emptied out?

19 A. It was empty.

20 Q. And was there any gas residue in the can?

21 A. Not that I recall.

22 Q. And then you got hard drive -- two hard
23 drives, and they were brought there by Mr. Lacy to
24 the meeting with Mr. Cavaroc?

25 A. Yes.

1 Q. And had those hard drives been downloaded,
2 to your knowledge?

3 MS. DALY: Objection to form.

4 THE WITNESS: The information I had
5 was that they were copied, not downloaded.

6 Q. (Mr. Wiggins) They were copied?

7 A. Yes.

8 Q. When you mean copy, what do you have
9 reference to?

10 MS. DALY: Objection to form.

11 THE WITNESS: Cloned. In other
12 words, anything other than cloning may alter the
13 contents, so....

14 Q. (Mr. Wiggins) And these were not the
15 original hard drives that were recovered from the
16 Miami Subs Restaurant, but were copies of those hard
17 drives?

18 MS. DALY: Objection.

19 Q. (Mr. Wiggins) Is that what you're saying?
20 I just want to be sure I understand what
21 you're saying.

22 A. I'm saying five and six were the originals
23 and number seven was the copy.

24 Q. Do you know where the originals were?

25 A. When?

1 MS. DALY: Objection to form.

2 MR. WIGGINS: Pardon?

3 THE WITNESS: When?

4 MR. WIGGINS: At the time of this
5 examination when you and Mr. Cavaroc met up in
6 Raleigh.

7 THE WITNESS: Do I know where they
8 were?

9 MR. WIGGINS: Yes, or do you know
10 who had them.

11 MS. DALY: Objection to form.

12 THE WITNESS: Well, Mr. Lacy brought
13 them to the inspection.

14 Q. (Mr. Wiggins) he brought the copies to
15 the inspection?

16 MS. DALY: Objection to form.

17 MR. WIGGINS: Well, I'm just trying
18 to be sure I understand.

19 Q. (Mr. Wiggins) Did he bring the originals
20 that he had obtained from the Miami Subs Restaurant
21 to this meeting with Mr. Cavaroc, or did he bring
22 copies of those -- of those hard drives that he had
23 obtained from the Miami Subs Restaurant?

24 MS. DALY: Objection to form.

25 THE WITNESS: Both.

1 Q. (Mr. Wiggins) He brought both of them?

2 A. Yes, sir. That's why five and six -- hard
3 drive number seven is external drive imaged from five
4 and six.

5 Q. And were both of those examined at the
6 time that you met with Mr. Cavaroc in Raleigh?

7 A. Only visually.

8 Q. And was any effort made to download any of
9 the information that might have been on either of
10 these hard drives?

11 MS. DALY: Objection to form.

12 THE WITNESS: Not at that time, no.

13 Q. (Mr. Wiggins) And number seven, it's --
14 I'm sorry -- you'll have to read that to me. I
15 can't....

16 A. External drive imaged from number five and
17 six, which is five and six above, and then Seagate
18 one terabyte.

19 Q. Was that just identifying the hard drives
20 that you identified in five and six?

21 MS. DALY: Objection to form.

22 THE WITNESS: Number seven is a --
23 is one hard drive that contains the cloned two hard
24 -- clones of the two hard drives, namely five and
25 six.

1 Q. (Mr. Wiggins) And were they produced at
2 the examination at Mr. Cavaroc's laboratory by Mr.
3 Lacy?

4 MS. DALY: Objection to form.

5 THE WITNESS: They were brought in,
6 made available for inspection.

7 Q. (Mr. Wiggins) By Mr. Lacy?

8 A. Yes.

9 Q. Then below that, again, Safe Labs....

10 A. Evidence.

11 Q. Evidence -- and this is items that were
12 not brought by either you or Mr. Lacy to the meeting
13 at Mr. Cavaroc's lab. Is that correct?

14 A. That is correct.

15 Q. And the first one there is an electric
16 power....

17 A. Meter.

18 Q. Meter -- and do you know who produced that
19 at the meeting?

20 A. Mr. Cavaroc.

21 Q. And do you know who Mr. Cavaroc was
22 retained by?

23 A. The electric utility company, PWC.

24 Q. In Fayetteville?

25 A. Yes.

1 Q. And number two, again, please read that.

2 A. I'm sorry.

3 Q. I'm sorry.

4 A. Receptacle number one and connected
5 wiring.

6 Q. And then no....

7 A. No evidence of electrical failure.

8 Q. Okay, and do you know where that came
9 from?

10 A. That was the rear wall adjacent to the
11 rear drive-thru window.

12 Q. And that would have been the furthest wall
13 away from the window?

14 A. Actually, to make this easier, if we pull
15 out my sketch -- one of my November 29 sketches, it
16 -- it shows that back area and the receptacle.
17 They're labeled.

18 Q. Is it further back in your notes or
19 further up?

20 A. I don't know. That will give us something
21 to reference.

22 Q. You've drawn the rear drive-in window on
23 this sketch. Is that correct?

24 A. Yes.

25 Q. And then the wall that you're referencing

1 here in number two would be the wall furthest away
2 from the window.

3 Would that be the one that we're talking
4 about?

5 A. So -- so that wall that you're seeing the
6 receptacles on, that is the wall to the rear of the
7 rear drive-thru window, front to back in the store,
8 and is the wall between the rear drive-thru area.
9 And the office area is on the other side.

10 Q. Okay, at the top of that drawing, Mr.
11 Martini, you've got JC evidence number two?

12 A. Correct.

13 Q. And what is that referencing there?

14 A. That's indicating -- that -- that
15 correlates to the list that we're going through.

16 JC is John Cavaroc, evidence number two.
17 So that -- that would be evidence that he took as
18 number two. And then number three is labeled as
19 well.

20 Q. And what -- what is that box drawing that
21 he has there -- or that you have there?

22 A. That's a junction box.

23 Q. And that junction box was located, again,
24 on one of the walls in the area where the drive-thru
25 window is located?

1 A. That junction box is actually above
2 ceiling level.

3 Q. Above ceiling -- above ceiling level?

4 A. Yes.

5 Q. Then number three is receptacles number
6 two and three and branched wiring. Is that correct?

7 A. Let's see number three.

8 Receptacles is number two and three and
9 connected wiring. No evidence of electrical failure.

10 Q. And is that numbered correspondingly on
11 your drawing?

12 A. Yes.

13 Q. And that's two and three that's on your
14 drawing? Is that also correct?

15 A. Yes.

16 Q. And did everybody who was present concur
17 in that analysis, that there was no problems to that
18 electrical wiring?

19 A. I heard nothing to the contrary.

20 Q. That was your conclusion, was it not?

21 A. Yes.

22 Q. Then number four was....

23 A. Oh, it's Onkyo receiver.

24 Q. Okay.

25 A. Looks like audio equipment.

1 Q. And what does that have reference to in
2 reference to the drawing?

3 A. That was removed from the office area if
4 it's not on this drawing.

5 Q. What is an Onkyo receiver?

6 A. Onkyo is a brand name. Receiver is the
7 audio receiver.

8 Q. A radio?

9 A. You can call it that.

10 Q. Okay. I don't -- I didn't know what it
11 was.

12 A. It's basically a combination -- radio and
13 amplifier is a receiver.

14 Q. Okay.

15 A. That's a short....

16 Q. Was it a -- was it an item that played
17 music in the restaurant?

18 A. Yes. Yes, it is.

19 Q. And that would have been number four.

20 And where is number four on the drawing?

21 A. It's not. Number four is only electrical
22 items in ---

23 Q. --- Okay.

24 A. --- In the area of origin.

25 Q. Who brought the Onkyo receiver to the

1 meeting, if you can recall?

2 A. Mr. Cavaroc. That was one of the items he
3 collected.

4 Q. Had you ever seen it before?

5 A. It was up on the shelf above the desk in
6 the office.

7 Q. Had you seen it when you were there on the
8 30th of January 2012?

9 A. Yes.

10 Q. Did you see anything else on that shelf
11 when you were there on January 30, 2012?

12 MS. DALY: Objection to form.

13 Q. (Mr. Wiggins) Relating to any kind of
14 electrical equipment.

15 A. Well, he had -- he had a number of items
16 on the shelves. I'd have to look at the photo to
17 give you a list of what was there.

18 Q. Okay. We'll look at it in just a moment.
19 But was ---

20 A. --- I mean, audio equipment is -- his
21 computer was there. His DVR recorder was up high. I
22 didn't really pay attention to it.

23 Q. Okay.

24 A. It wasn't really my area of focus.

25 Q. Did you take photographs of that yourself,

1 or did someone else take photographs of that area?

2 A. I took some area -- some photographs of
3 the office area, but I focused on the other end
4 closer to the fire.

5 Q. And was the wiring that -- that ran to the
6 Onkyo receiver also brought to the meeting?

7 A. Are you referring to the connected power
8 supply?

9 Q. Connected power supply, yes.

10 A. I believe so.

11 Q. And is it also noted on your notes here?

12 A. Well, on the notes it covers the receiver,
13 and there was a -- kind of a speaker distribution box
14 that was, I believe, on top of that -- kind of a
15 five-channel distribution box so they could take the
16 output on the receiver and send it to multiple pairs
17 of speakers throughout the restaurant.

18 Q. And did anyone observe any issues --
19 electrical issues -- with that Onkyo receiver?

20 A. No.

21 Q. Or any of the wiring that was connected to
22 that receiver?

23 A. No.

24 Q. The next item is electronics.

25 A. Electronics and cords from office wall.

1 Q. And then you've got in parens ---

2 A. --- This is the backside of drive-thru
3 wall.

4 Q. Okay, and what kind of electronics was
5 recovered and brought to the meeting?

6 A. Basically we -- he collected everything on
7 that wall. Mostly his data -- data cables. It was a
8 big mess.

9 Q. Burned?

10 A. Yes. Heat damaged.

11 Q. Heat damage?

12 A. Yeah.

13 Q. And was any other electronic equipment
14 brought to the meeting by Mr. Cavaroc?

15 A. There's some things further down.

16 Q. Number six is a....

17 A. Originally I wrote alarm panel, and then
18 drew a line through that when we actually determined
19 what it was. And then -- plus a UPS, uninterruptible
20 power supply, from the south wall of the office.

21 The alarm panel -- what we originally
22 thought was an alarm panel was -- turned out to be a
23 power supply particularly used for surveillance
24 cameras.

25 Q. And did Mr. Cavaroc bring that to the

1 meeting?

2 A. Yes.

3 Q. Did he bring the DVR to the -- to the
4 meeting?

5 A. No.

6 Q. Do you recall seeing that DVR when you
7 were at the restaurant on January the 30th, 2012?

8 A. Yes.

9 Q. Did you ever see it after you were there
10 on January 30th, 2012?

11 A. No.

12 Q. Okay. When you said the PS-18 DC10-A,
13 what is that? Not plugged into UPS.

14 What does that have reference to, please.

15 A. That is the surveillance camera power
16 supply.

17 When we looked at that we determined that
18 it had not -- was not plugged in, not connected to
19 power ---

20 Q. --- Okay.

21 A. --- At the time of the fire.

22 Q. Okay, and do you know where that came
23 from?

24 A. It was on the shelves above the office
25 desk.

1 Q. And did all of the wiring that went into
2 that DVR -- was that brought to the meeting with Mr.
3 Cavaroc?

4 MS. DALY: Objection to form.

5 Q. (Mr. Wiggins) To your knowledge.

6 A. The wiring that went to the missing DVR?

7 Q. Uh-huh.

8 MS. DALY: Objection to form.

9 THE WITNESS: I don't believe that
10 was collected.

11 MR. WIGGINS: Okay.

12 THE WITNESS: There would have been
13 secondary cables connected to it. I don't think we
14 collected that.

15 Q. (Mr. Wiggins) That was not something that
16 any -- in any event, that you collected when you were
17 there?

18 A. I did not collect that.

19 Q. Okay, let's go on to number seven.

20 The next page is a monitor, south wall of
21 the office.

22 (Witness examined document)

23 Q. Is that what is written there?

24 A. Yes.

25 Q. And beside that you've got AC ERV 173?

1 A. It's a brand and model number.

2 Q. And what is that -- what does that have
3 reference to?

4 A. Just a video monitor from the office.

5 Q. And were there more than one video monitor
6 in the -- in the building?

7 MS. DALY: Objection to form.

8 THE WITNESS: In the building, yes.

9 Q. (Mr. Wiggins) That you saw?

10 A. Yes.

11 Q. Okay, did you see the other one at Mr.
12 Cavaroc's lab in Raleigh or just the one that you've
13 got noted here in number seven?

14 A. Just the one from the office.

15 Q. Do you know why the other one was not
16 collected?

17 A. The other ones I remember seeing, some in
18 the kitchen area, I don't recall if they were even
19 there at the later inspection -- site inspection.

20 Q. Number eight, again, printer. Is that
21 what that word is?

22 A. Printer, yeah. Southwest wall of office.
23 HP is the brand.

24 Q. Hewlett Packard?

25 A. Yes.

1 Q. And was the wiring collected also to that
2 printer?

3 A. Yes.

4 Q. And was it present at Mr. Cavaroc's lab?

5 A. Yes.

6 Q. And was that inspected by everyone and
7 nothing was found particularly wrong with that?

8 A. That's correct.

9 Q. Number nine?

10 A. Number nine says bank deposit book.

11 Q. Okay, what was the significance of that,
12 Mr. Martini, if you know?

13 A. It was found in the office. I'm not sure
14 why it was collected.

15 Q. Number 10, debris from between....

16 A. Drive-thru windows ---

17 Q. Drive-thru windows.

18 And was that collected in cans or some
19 other source for storage?

20 A. If I remember correctly, it was in a bag.

21 Q. And do you know who collected that debris
22 that was there?

23 A. Mr. Cavaroc.

24 Q. And was that also viewed by x-ray?

25 A. I don't recall specifically. If -- if it

1 was, I'd have photos of the x-rays in my -- in my
2 photos.

3 Q. Number 11 is wiring?

4 A. Small gauge.

5 Q. Small gauge and....

6 A. End of fluorescent tube.

7 Q. End of fluorescent tubes.

8 And they came from the fluorescent wiring
9 in the restaurant?

10 A. Mr. Cavaroc retrieved those from a debris
11 pile near the rear drive-thru window.

12 Q. And number 12?

13 A. Outlet wall plate.

14 Q. And ---

15 A. --- He retrieved that from the same area.

16 Q. And that was inspected and was found not
17 to have been defective in any way that you could
18 determine. Is that correct?

19 A. That's correct.

20 Q. The notes that you have here on the HME
21 Ion IQ, they were made sometime after the meeting
22 that you had in Raleigh with Mr. Cavaroc?

23 A. Yes.

24 Q. Do you know about what date they would
25 have been made? Is there anything on -- strike that.

1 Was there anything on this document that
2 would indicate about what day it was made?

3 A. I've got a June 17th date in the
4 lower-left column, so it would have been somewhere
5 within a week of that -- in the week prior.

6 Q. Was that the first time, Mr. Martini, that
7 you knew what the make or model of the communication
8 system that was present in the restaurant for the
9 take-out window that had been looked at early on by
10 you?

11 A. I was made aware of make and model, what
12 -- what that was through my reading of EUO's or
13 depositions.

14 Q. Okay.

15 A. Correct.

16 Q. And that would have been sometime in 2013?

17 A. Yes.

18 Q. The next page on your notes you have --
19 you have information concerning Bob Dowlat, Creative
20 Computers.

21 Did this come from his deposition or did
22 you have a conversation with him directly?

23 A. From his deposition.

24 Q. And would this also have been made
25 sometime in 2013 when you reviewed his deposition?

1 A. Yes.

2 Q. The next page you've got a CD labeled
3 Class File 103.

4 And I'm sorry, the last word is....

5 A. PDF.

6 Q. PDF. And what does that have reference
7 to?

8 A. Those were CD's provided by counsel for me
9 to review. Just information.

10 Q. And next is 157 photos.

11 Were they furnished to you by counsel for
12 you to review?

13 A. Yes.

14 Q. And then you've got two photos later, N&M,
15 0417 shows the DVR still in place.

16 Do you see that?

17 A. Yes.

18 Q. And what -- what reference -- what photos
19 do you have reference to there?

20 A. Okay, let's go back up to page 157 of this
21 -- was that a complaint?

22 Photo -- photo identified as NWM 01415
23 shows receptacle with my paint marking. Two photos
24 later, NWM 01417, shows the DVR still in place.

25 Q. And then in complaint number 13 it states

1 Lacy met with Jimmy two days after the fire and then
2 removed the DVR.

3 You see that?

4 A. Yes.

5 Q. Where did you find -- where did you obtain
6 that information?

7 A. It's one of the complaint documents.

8 Q. Furnished to you by counsel?

9 A. Yes.

10 Q. And then you got first fire call, and then
11 another fire -- I'm sorry.

12 A. First fire call 8:41 a.m. Smoke through
13 drive-thru window.

14 Q. 8:43, is that --

15 A. --- Yeah. Smoke from front door.

16 Next line, cycle shop puts truck in lot
17 8:30 to 8:35.

18 Q. Okay.

19 A. Surveillance camera system installed by
20 Creative Computers. Micros POS, drive-thru speaker
21 system, and then EUO, Jimmy volume one, volume two.
22 Tavis (sic) Michalos, Victoria Moon.

23 Q. Was this -- was this -- would have been
24 when you read those depositions?

25 A. Correct.

1 Q. And then the next thing I have here is
2 dated 11-29-12, and these are drawings of electrical
3 panels.

4 Is that what that would be?

5 A. Yes.

6 Q. And you've got X'd out on some of them and
7 lines drawn.

8 What is that? What does that indicate?

9 A. X's indicate a blank. In other words, no
10 circuit breaker was in that slot.

11 The vertical lines indicate a double or a
12 triple-pole breaker, meaning all three or -- two or
13 three are tied together. The letter T indicates
14 tripped.

15 Q. Is there any significance to a circuit
16 breaker having been tripped?

17 MS. DALY: Objection as to form.

18 THE WITNESS: Not other than the
19 circuit was compromised by the fire and tripped.

20 Q. (Mr. Wiggins) And would that be what you
21 would expect to find in any building fire, that it
22 would trip breakers in the -- in the circuit breaker?

23 A. Yes.

24 Q. Let's go back to the day that you went to
25 the restaurant.

1 Again, you met Jimmy there. He let you
2 into the restaurant -- is that correct -- Jimmy
3 Diamantopoulos?

4 A. I believe he's the one that let us in.

5 Q. Okay. And you got there about nine
6 o'clock in the morning, I think you said.

7 And when you got there, just give me
8 generally what you saw or what you found when you
9 arrived at the restaurant.

10 A. I did a -- just a quick walk-through and
11 then I proceeded to do my documentation.

12 Q. Had you talked to anyone prior -- prior to
13 your going to the restaurant in preparation for your
14 review of the electrical systems in the restaurant?

15 A. The discussion I would have had with Mr.
16 Lacy would have consisted of, you know, the fire by
17 the rear drive-thru window area, and there's some
18 electrical components I need -- looked at.

19 Q. And did he give you any assessment of what
20 he had found or what he thought on his prior visits
21 to the restaurant?

22 A. Other than what I just said, no.

23 Q. Did you know that he had been to the
24 restaurant on January the 26th and January the 27th
25 of 2012?

1 A. Yes.

2 Q. And did he -- he had no discussion with
3 you about what he had found and what his thoughts
4 were about the cause of the fire?

5 A. Until I did my work, he didn't have a
6 cause.

7 Q. Did he have any discussion with you about
8 any thoughts that he had about the cause of the fire?

9 A. Not that I recall.

10 Q. And when you went there, you said Mr. --
11 in addition to Mr. Lacy being there and Jimmy being
12 there, the SBI agent was there?

13 A. Later.

14 Q. What time of day did he get there?

15 A. It was towards the end of the day,
16 five-ish.

17 Q. And did you have discussions with him?

18 A. Right.

19 Q. And did he give you the benefit of his
20 investigation?

21 A. I don't recall what he may have said. I
22 just recall giving him the result of my findings.

23 Q. Did you ask him for what his findings
24 were?

25 MS. DALY: Objection. Asked and

1 answered.

2 THE WITNESS: I don't recall.

3 Q. (Mr. Wiggins) Did you ever learn from him
4 or from Mr. Lacy that he had determined that -- he
5 had made a determination the fire was not to be --
6 could not be determined?

7 MS. DALY: Objection to form.

8 THE WITNESS: No, I don't recall.

9 Q. (Mr. Wiggins) Did you have any
10 discussions with Mr. Lacy in reference to the
11 findings of anyone else other than himself?

12 MS. DALY: Objection to form.

13 THE WITNESS: I'm not sure I
14 followed that.

15 Q. (Mr. Wiggins) Did Mr. Lacy ever tell you
16 that he had had -- that he had found -- he had talked
17 to the SBI agent who investigated the fire, or to the
18 policemen who had investigated the fire, the police
19 department, and tell you what their findings were?

20 MS. DALY: Objection to form.

21 Are you talking about on that day?

22 MR. WIGGINS: On that day.

23 MS. DALY: Okay.

24 THE WITNESS: On that day, I don't
25 recall. I -- I've read things since then, so I don't

1 want to confuse that.

2 MS. DALY: Can we take a five-minute
3 restroom break? Is this a good time?

4 MR. WIGGINS: Sure.

5 (11:38-11:45 a.m. - recess)

6 MR. WIGGINS: Okay, back on the
7 record.

8 Q. (Mr. Wiggins) Mr. Martini, when you went
9 to the restaurant on the 30th of January of 2012,
10 what was the first thing that you did?

11 A. Like I said, I did a walk-through of the
12 interior, and then I went outside and proceeded with
13 my exterior photos and diagram.

14 Q. Are those photos that you have referenced
15 to on the -- on the documents you provided to counsel
16 today to give to us?

17 A. Yes.

18 Q. All of them are on that hard drive?

19 A. Yes.

20 Q. And after you did that did you go back
21 into the restaurant?

22 A. Yes.

23 Q. And when you went back into the restaurant
24 what -- what did you then do?

25 A. My typical method is to start with where

1 the power is supplied from the exterior -- i.e.,
2 transformer to the property, any property -- what I
3 call follow the power into the -- the meter and the
4 interior circuit breaker panels, and then into the
5 area of -- of interest.

6 Q. And when you were looking at the circuit
7 panels and the wiring, what were you looking for?

8 A. Any signs of unusual damage.

9 Q. And I know that in a fire wiring is
10 extensively damaged, is it not, in most cases?

11 MS. DALY: Objection to form.

12 THE WITNESS: Depending on its
13 relative location to the fire, yes.

14 Q. (Mr. Wiggins) And severity?

15 A. Yes.

16 Q. And did you find severely damaged wiring
17 in the area where this fire was identified as having
18 begun by Mr. Lacy?

19 A. Yes.

20 MS. DALY: Objection.

21 Q. (Mr. Wiggins) And as you observed that
22 wiring, was it charred, burned wiring?

23 MS. DALY: Objection to form.

24 THE WITNESS: The -- well, the most
25 severe damage would have consisted of the insulation

1 having melted or burned off.

2 Q. (Mr. Wiggins) And I noticed in some of
3 the photographs there was wiring hanging down from
4 the ceiling.

5 Do you recall that?

6 A. Yes.

7 Q. And what kind of wiring was that?

8 A. There was a mixture of data cables, some
9 electrical wiring.

10 Q. Okay.

11 A. Electrical wiring typically was -- it was
12 contained within metallic conduit, so any -- any
13 hanging wiring was not electrical service cable.

14 Q. And the hanging wiring was not in -- was
15 not in aluminum conduit?

16 A. Correct.

17 Q. And did you observe any beading -- beading
18 on any of those connections of that wiring?

19 A. No.

20 Q. What is the significance of beading?

21 A. Beading indicates electrical activity, and
22 -- and it also indicates that the conductor was
23 energized at the time of failure.

24 Q. And did you -- did you look at those --
25 that wiring for identification of any such beading

1 when you made your investigation?

2 A. Not the wiring inside the conduit at the
3 time, no.

4 Q. But the hanging down wiring, did you
5 observe -- look at that for any beading?

6 A. Yes.

7 Q. What about all the circuits that you
8 previously identified that you looked at on that
9 date, did you look at those for any types of beading?

10 A. The wiring that was inside the conduit?

11 Q. In the conduit.

12 A. Those would have been looked at at the lab
13 exam. We had to pull those out, and I -- I didn't do
14 that at the scene.

15 Q. And where was the majority of the wiring
16 located that you looked at on that date?

17 A. In the area -- well, basically my -- my
18 sketch covered it, but in the area of the drive-thru
19 -- rear drive-thru window.

20 Q. And was that the area where Mr. Lacy
21 identified to you to have been what he thought the
22 origin of the fire was?

23 A. Yes.

24 Q. And that would have been in at about the
25 wall where the drive-thru window was -- that the

1 first -- what we call the first drive-thru window at
2 the -- at the Miami Subs Restaurant?

3 A. First as in the first window you come to
4 as you drive around?

5 Q. Right. When you come around, right.

6 A. Yeah.

7 Q. Is that -- would that be correct?

8 A. Yes.

9 Q. And you had mentioned in your report that
10 you saw that there was fluorescent lighting in that
11 area. Is that correct?

12 A. Yes.

13 MS. DALY: Objection.

14 Q. (Mr. Wiggins) And how many electrical
15 fluorescent lighting panels did you observe there?

16 A. The suspended ceiling was gone at that
17 point in that back area. Whatever lighting fixtures
18 had been -- originally in place were not -- no longer
19 in place.

20 There was a -- there were four or five of
21 my photographs which show a number of fluorescent
22 fixtures that were -- had been collected, and -- and
23 set up for me to look at.

24 Q. Where were they collected and set up for
25 you to look at them?

1 A. Before or after?

2 Q. At the time you were there. Where were
3 they when you were -- well, let me strike that.

4 Where were they when you first saw those
5 electrical fluorescent lighting systems?

6 MS. DALY: Objection to form.

7 THE WITNESS: Did you say
8 fluorescent fixtures or ---

9 MR. WIGGINS: --- Fluorescent
10 lighting fixtures.

11 THE WITNESS: They were lined up
12 along the front counter. It -- it's what my -- my --
13 my photographs show.

14 Q. (Mr Wiggins) Did someone identify to you
15 that those fluorescent lighting fixtures had been
16 removed from the area where the drive-thru window was
17 to a different area?

18 A. Yes. They were identified as being
19 somewhere in that area. No -- nobody could identify
20 which one went specifically where. But they all had
21 heat damage, so I knew they were from -- generally
22 from that area.

23 Q. And who told you that? Do you recall?

24 MS. DALY: Objection to form.

25 THE WITNESS: Mr. Lacy would have

1 told me that, that the state investigator had
2 collected those, I believe.

3 Q. (Mr. Wiggins) And when he said state
4 investigator, would that have been ---

5 A. --- Mr. Royal.

6 Q. --- Mr. Royal?

7 A. Yes.

8 Q. And did you look at those fluorescent
9 lighting systems there where they were when you saw
10 them?

11 A. Yes.

12 Q. Did you look at the ballasts?

13 A. Yes.

14 Q. And did you examine the ballasts?

15 A. Visually, yes.

16 Q. And did you take them -- did you dissect
17 them. or take them apart?

18 A. I did not.

19 Q. A ballast is simply a system within a
20 fluorescent lighting system that regulates the heat
21 to the -- to the light, does it not?

22 A. It regulates voltage.

23 Q. Regulates voltage. Sort of the
24 transformer? Would that be a correct ---

25 A. --- Yes.

1 Q. --- Description of it?

2 A. Yes, exactly.

3 Q. And did you take any of those ballasts
4 apart to look at them to see if there were any
5 defects in them at all?

6 MS. DALY: Objection to form.

7 THE WITNESS: While I was there?

8 MR. WIGGINS: While you were there.

9 THE WITNESS: That would -- to
10 answer your question, no, and also, that would not be
11 a task I would do on-site.

12 Q. (Mr. Wiggins) And was it subsequently
13 done in a laboratory at some point?

14 A. No.

15 Q. Was there any other items that you looked
16 at after you looked at the -- the fluorescent
17 lighting systems?

18 MS. DALY: Objection to form.

19 THE WITNESS: I looked at -- other
20 than the electrical components in that area, near the
21 origin, which we've already talked about -- we're
22 saying that's done. Right? Okay.

23 Fluorescent fixtures, and then the -- Mr.
24 Royal had collected some debris that was on the
25 counter in the kitchen area that I looked at as well.

1 Q. (Mr. Wiggins) Now, the debris that you
2 looked at, was that identified in your report in the
3 overall view of that on my photograph 33?

4 A. (No response)

5 MR. WIGGINS: I thought I brought
6 more than one, but I guess maybe I didn't.

7 Oh, here I got it. I'm sorry.

8 Let me tell you what I -- -- I think we
9 previously marked this as 46, but I'm going to call
10 this 46A. Is that okay if I do that?

11 (* Exhibit 46A was marked *)

12 Q. (Mr. Wiggins) Do you recognize that
13 document, Mr. Martini?

14 A. Yes.

15 Q. Is that your first report that you made to
16 Nationwide Insurance Company?

17 A. Yes.

18 Q. And is this the photograph -- some of the
19 photographs that you took at the time you were there?

20 A. Yes.

21 Q. And I've asked you about some things that
22 you previously identified.

23 Number one is on the outside of the
24 building that the -- that panel device there, you see
25 on the second page, photograph number three?

1 A. Okay.

2 Q. Now, that's the electrical -- outside
3 electrical panel to the restaurant?

4 Is that what that is?

5 A. Yes.

6 Q. And that was examined in November of 2012,
7 was it not?

8 A. Yes.

9 Q. And this photograph was taken by you at
10 that -- on that date?

11 MS. DALY: Objection to form.

12 Q. (Mr. Wiggins) That is, in November 2012?

13 A. These are my January 30th photos.

14 Q. I'm sorry. January 30 photos.

15 You went back -- I remember going back
16 there, and you were there on November -- in November
17 of 2012, and the PWC was there and they opened that
18 box. Do you recall ---

19 A. --- Yes.

20 Q. Were you there on that occasion?

21 A. I was.

22 Q. And this is the box that they opened on
23 that date?

24 A. It is.

25 Q. And everybody took photographs of the open

1 box and found no issues with the electrical
2 components in that -- in that electrical box?

3 Would that also be true?

4 A. That is correct.

5 Q. And the next photographs would be the main
6 service panels that you and I looked at and talked
7 about early on, and you identified as being panels A,
8 B and C. Is that also correct?

9 A. Yes, it is.

10 Q. And some of these, you said, were tripped,
11 and you identified those that were tripped on your
12 drawing that you have talked to me about earlier. Is
13 that true?

14 A. Yes.

15 Q. And the next photograph, number 16, is the
16 view from -- from the hallway toward the rear
17 drive-thru service area, rear drive-thru windows
18 boarded up, and that's the area that we've identified
19 as being what Mr. Lacy identified to you as being the
20 ---

21 MS. DALY: --- Are you referring to
22 photograph 16?

23 MR. WIGGINS: Sixteen.

24 MR. DALY: Okay. Thank you.

25 MR. WIGGINS: Correct. I'm sorry.

1 Photograph 16 as being the area of
2 original of the fire.

3 MS. DALY: Objection to form.

4 THE WITNESS: Is that a question?

5 MR. WIGGINS: Yeah. The question
6 was did Mr. Lacy identify that to you as being the
7 area of origin of the fire.

8 MS. DALY: Objection to form.

9 THE WITNESS: Yes.

10 Q. (Mr. Wiggins) And I've asked you about
11 these receptacles one, two and three, and you also
12 identified those on your drawing that we looked at
13 earlier on. Is that correct?

14 A. Yes.

15 Q. The wiring that we're looking at -- look
16 at photograph number 27, and the Bates stamp is
17 01845.

18 You see that, Mr. Martini?

19 A. I do.

20 Q. And was that the wiring that you
21 identified earlier that we were asking about located
22 in the ceiling area where it -- where Mr. Lacy
23 identified to you where he thought the origin of the
24 fire was?

25 A. Yes.

1 Q. And did you examine that wiring?

2 A. I did.

3 Q. I see a chain hanging down in that
4 photograph.

5 Do you see that?

6 A. Yes.

7 Q. And is that a chain that would have held
8 the lighting system, or do you know what that is?

9 A. That is not holding the lighting system.
10 Probably have to look at some other -- other photos.
11 Looks more like a shelf bracket or something.

12 Q. Okay.

13 A. Can't quite tell completely from that
14 photo.

15 Q. But the top of this photograph shows a
16 fluorescent light, does it not?

17 A. Yes.

18 Q. And again, photograph 28 and 29, Bates
19 stamp number 1848 is, again, the ceiling area in the
20 area where the origin of the fire was identified by
21 Mr. Lacy?

22 A. Yes.

23 Q. And then photograph number 32, Bates
24 stamped 1848, that's identifying the fluorescent
25 fixtures in the hallway near the rear drive-thru

1 service area.

2 And that's the one you were -- you and I
3 were talking about earlier. Is that also correct?

4 A. In photograph 27, yes.

5 Q. Photograph number 33, Bates stamp number
6 1849, is identified as miscellaneous items recovered
7 from the rear drive-thru service area.

8 Do you see that?

9 A. Yes.

10 Q. And did you talk to Mr. Lacy about these
11 items?

12 A. To the extent that I was informed that
13 they were collected from that area in back.

14 Q. Did he tell you what it was?

15 A. No.

16 Q. Did you talk to Chad Royal about these
17 items?

18 A. Only to the extent that they didn't find
19 any evidence of a failure.

20 Q. Did you know what it was when you looked
21 at it?

22 A. What was?

23 Q. Did you know what this was in -- you've
24 got miscellaneous items recovered.

25 Do you know what the miscellaneous items

1 were?

2 MS. DALY: Objection to form.

3 Q. (Mr. Wiggins) At the time that you first
4 looked at it on January 30th, 2012.

5 A. What they all were?

6 Q. Yes.

7 A. Okay. Various pieces of wiring, printed
8 circuit boards, some melted mass of something.

9 Q. And did you know where these circuit
10 boards came from?

11 A. Not specifically.

12 Q. Did you talk to Mr. Lacy and ask him where
13 they came from?

14 MS. DALY: Objection to form.

15 THE WITNESS: Sure. I was told
16 somewhere in that area.

17 MR. WIGGINS: Okay.

18 THE WITNESS: It was found -- all
19 this was found in the debris in that area.

20 Q. (Mr. Wiggins) And did you talk to Mr.
21 Royal about these items, these miscellaneous items?

22 A. Other than informing him that I found no
23 evidence of a failure, I don't -- I don't think so.

24 Q. And did Mr. Lacy tell you where the --
25 where it was found in the area where the fire, as he

1 identified it, began?

2 MS. DALY: Objection. Asked and
3 answered.

4 THE WITNESS: Just that it was from
5 that area.

6 Q. (Mr. Wiggins) Did you ever ask him
7 specifically where it came from?

8 MS. DALY: Objection. Asked and
9 answered.

10 THE WITNESS: In other words, no, he
11 didn't point to a spot on the floor and say it came
12 from there, no. He just -- it was from that area.

13 Q. (Mr. Wiggins) Did you have any curiosity
14 about where it came from?

15 MS. DALY: Objection.

16 THE WITNESS: I'm always curious
17 where everything comes from on a fire scene, but
18 sometimes that's not answered.

19 Q. (Mr. Wiggins) Did you ask if it were --
20 if it was some kind an appliance that had been
21 located in that area?

22 A. No.

23 Q. Did you have any -- did any question arise
24 in your mind as to where it might have been?

25 A. Well, I knew it was from that area based

1 on the amount of damage.

2 Q. Okay, but nobody ever told you where it
3 was situated or anything else about it. Is that what
4 you're saying?

5 MS. DALY: Objection.

6 THE WITNESS: That's my
7 recollection, yes.

8 Q. (Mr. Wiggins) Did you make any notes
9 about this item that you had?

10 A. No.

11 Q. Did you read the report that I furnished
12 to counsel that was written by James Small?

13 A. Yes.

14 MS. DALY: Actually, so that the
15 record is clear, are you talking about the letter
16 that you've sent us?

17 MR. WIGGINS: Yes.

18 MS. DALY: You just said a report.
19 We have a letter.

20 MR. McLEAN: Can we go off the
21 record for one minute.

22 (12:05-12:06 p.m. - recess)

23 Q. (Mr. Wiggins) Let me show you, Mr.
24 Martini, what is a report dated August 15, 2013, to
25 Trey McLean from Kodiak Fire & Safety Consulting.

1 Have you ever seen this before?

2 A. No.

3 Q. Do you know who James Small is?

4 A. Yes.

5 Q. How do you know him?

6 A. From an article that was referenced.

7 Q. And was that article furnished to you by
8 counsel?

9 A. Actually, no. I had that from before.

10 Q. How did you obtain a copy of that article
11 written by James Small?

12 A. I don't remember who sent that to me. I
13 got -- I got that sometime ago, I mean, possibly a
14 year or two ago unrelated to this case.

15 Q. And had nothing to do with this matter
16 that we're talking about here today?

17 A. That's correct.

18 Q. Have you ever talked to Jim Small?

19 A. I have not.

20 Q. And are you familiar with the article that
21 you just showed me that you have read and are
22 familiar with?

23 A. Yes.

24 Q. And the basis of that article had to do
25 with 24 volt or less appliances and potential for

1 fire in those appliances ---

2 A. --- Yes.

3 Q. --- Printed circuit boards?

4 Is that -- would that be an accurate
5 description of it?

6 A. Pretty good.

7 Q. Have you ever done any studies on -- on
8 printed circuit boards yourself on this -- in any
9 respects whatsoever in relation to its potential for
10 fire?

11 MS. DALY: Objection to form.

12 THE WITNESS: Study other than
13 related to investigating fires?

14 MR. WIGGINS: Yes.

15 THE WITNESS: No.

16 Q. (Mr. Wiggins) And do you recall the
17 occasion of your having to become familiar with the
18 article written by James Small?

19 A. It was not sent to me in conjunction with
20 any particular case I was working on.

21 Q. Okay.

22 A. It was just information that somebody
23 passed along to me.

24 Q. Have you read that article again recently
25 in preparation for your testimony in this -- this

1 particular case?

2 A. I did reread it, yes.

3 Q. And do you have any thoughts with what the
4 findings of Jim Small was in that article?

5 MS. DALY: Objection to form.

6 THE WITNESS: Well, what specific
7 finding?

8 MR. WIGGINS: Well ---

9 THE WITNESS: --- He's opening --
10 he's just raising awareness in what he's doing. And
11 as far as findings go, he's got one -- one particular
12 case study that he's written about all the way
13 through.

14 I think it should be kept in mind that the
15 type of failure that he's discussing on a circuit
16 board level can happen. More often than not, the
17 result is that the particular appliance stops
18 working. There's no reason to think that anytime
19 there's a failure on a board -- at board level,
20 you're going to end up with a fire, because we'd have
21 everything blowing up around us. Okay?

22 So first thing that would typically happen
23 is that an item would stop working. There's no
24 indication that this wireless equipment had any kind
25 of operational problems.

1 The only one that he's -- when they show
2 something has gone to failure is in his figure six,
3 and that shows very specific damage to the board.
4 You've got a hole in the board, you've got edges of
5 the board missing.

6 Q. (Mr. Wiggins) Is the article that you're
7 referring to, is it entitled Class 2 Transformers and
8 Plastic Enclosed Printed Circuit Boards, a
9 Potentially Perilous Combination?

10 A. No.

11 Q. Is the one that you have called Low
12 Voltage, the Incomplete Ignition Source Dispelling
13 the Myth?

14 A. Yes.

15 Q. And you're familiar with the article?

16 A. That one, yes.

17 Q. Okay, and his -- I guess his conclusions
18 -- it's not really specific conclusions.

19 Well, he has a conclusion at the very last
20 page of his article, and it says conclusion, the
21 proliferation of consumer electronics in the home and
22 the ever-increasing and never-ending push to
23 miniaturize them continues to introduce new
24 challenges for the fire investigative community.

25 The utilization of manufacturing processes

1 are increasingly more difficult to control from a
2 cleanliness perspective, and the drive to reduce
3 hazardous substances such as formerly effective fire
4 retardant agents in PCB's are continuing to create
5 the, quote, perfect storm, end quote, with respect to
6 printed circuit board ignition.

7 You see that in the article?

8 A. Yes.

9 Q. And do you agree with that or disagree
10 with that?

11 MS. DALY: Objection to form.

12 THE WITNESS: I agree in general.

13 Q. (Mr. Wiggins) And it says, furthermore,
14 the management of these critical process parameters
15 required to ensure reliable and safe operation of
16 printed circuit boards in the hands of the consumer
17 continues to be overwhelming challenging -- challenge
18 for many companies sourcing product from contract
19 manufacturers in the Pacific Rim.

20 Do you see that?

21 A. Yes.

22 Q. Do you agree with that or disagree with
23 that statement?

24 MS. DALY: Objection to form.

25 THE WITNESS: Well, I wouldn't use

1 as many adjectives, but in general, I agree.

2 Q. (Mr. Wiggins) And then next paragraph he
3 says, for investigators who wish to improve their
4 accuracy in identifying the root causes of the fires
5 they investigate, virtually all electronic devices in
6 the area of origin, and in parens, and the area of
7 interest, end parens, must be considered as potential
8 ignition sources, period.

9 Do you agree or disagree with that
10 statement?

11 MS. DALY: Objection to form.

12 THE WITNESS: I agree.

13 Q. (Mr. Wiggins) Devises geographically
14 remote from the area of origin, comma, even those
15 located in the compartment completely unaffected by
16 fire, comma, must also be considered if connected to
17 such devices via data cable, comma, coax or like
18 wiring, period.

19 Do you agree or disagree with that
20 statement?

21 MS. DALY: Objection to form.

22 THE WITNESS: Agree.

23 Q. (Mr. Wiggins) And then the next point he
24 makes in the next paragraph, he says, no longer is it
25 acceptable to turn a blind eye to products that are

1 arbitrarily considered to be, quote, low voltage, end
2 quote.

3 Do you agree or disagree with that?

4 MS. DALY: Objection to form.

5 THE WITNESS: Agree.

6 Q. (Mr. Wiggins) And then he says, no longer
7 is it acceptable to ignore devices formerly believed
8 to be incapable of developing enough heat to initiate
9 a fire.

10 Do you agree or disagree with that
11 statement?

12 MS. DALY: Objection to form.

13 THE WITNESS: Agree.

14 Q. (Mr. Wiggins) And then, no longer is it
15 acceptable to apply conventional compartment fire
16 development principles to small-scale electronic
17 assemblies and devices.

18 Do you agree or disagree with that
19 statement?

20 MS. DALY: Object to form.

21 THE WITNESS: Agree.

22 Q. (Mr. Wiggins) When you look at this --
23 this circuit board that you've identified in
24 photograph -- photograph number 33, did you examine
25 the contents of that board for any carbonization on

1 any of the components of the board?

2 A. Well, there were no components left on the
3 board at that time.

4 Q. Could you see any carbonization on any of
5 the points of the board?

6 A. That type of damage would have been masked
7 by the fire.

8 Q. The question is you did not find any. Is
9 that correct?

10 A. That's correct.

11 Q. Did you look for any?

12 A. I looked for any specific damage, any
13 specific localized damage on the board on both sides.

14 Q. And even in your report on May 23rd, 2012
15 -- do you have that before you there?

16 You do -- I'm sorry. It's in the back
17 part of the photographs that you have.

18 (Witness examined documents)

19 A. Okay.

20 Q. This was written to Michael Jezierski on
21 May 23rd, 2012. Is that correct?

22 A. Is that a question?

23 Q. It's a question.

24 A. Yes.

25 Q. And did you write this in conjunction with

1 the report written by Mr. -- by Mr. Lacy?

2 MS. DALY: Objection to form.

3 THE WITNESS: I'm not sure what you
4 mean by in conjunction with.

5 Q. (Mr. Wiggins) Did you and he consult each
6 other when you wrote your report as opposed to when
7 he wrote his report?

8 A. No. I was asked to prepare a short report
9 on my findings, and I did.

10 Q. And my question was did you consult with
11 Terry Lacy about his report that was -- that
12 pre-dated your report prior to writing your -- this
13 report?

14 MS. DALY: Objection to form.

15 THE WITNESS: I don't believe so.

16 Q. (Mr. Wiggins) Did you and he have any
17 discussions about your findings prior to your writing
18 this report?

19 A. Well, he knew about my findings the day I
20 was out there.

21 Q. Yes, yes, the day you were out there.

22 A. I said I discussed my findings with him
23 when I was out there on the 30th.

24 Q. Prior to writing this report, or
25 immediately prior to writing this report, did you

1 have any discussions with Terry Lacy?

2 A. I ---

3 MS. DALY: --- Objection to form.

4 THE WITNESS: Sorry.

5 Not that I recall.

6 Q. (Mr. Wiggins) Did you review any report
7 that was written by Terry Lacy prior to your writing
8 this report?

9 A. No.

10 Q. Did you know that Terry Lacy did not
11 mention in his report this circuit board that he
12 found at or near the location of what he had found to
13 be the origin of the fire?

14 MS. DALY: Objection.

15 Mischaracterization.

16 You can answer.

17 THE WITNESS: Did I know he didn't
18 have it in his report?

19 Q. (Mr. Wiggins) Did you know he did not
20 contain any mention of this circuit board in his
21 report, that he found at or near the location of the
22 origin of the fire, or is that ---

23 MS. DALY: --- Objection.

24 THE WITNESS: I guess I didn't see
25 his report.

1 Q. (Mr. Wiggins) You didn't see his report?

2 A. Right.

3 Q. Have you read his report to this day?

4 A. I've seen his most recent one. I don't --
5 I probably read the other one at some point.

6 Q. If I represent to you that he made no
7 mention of the circuit board in his report, would
8 that refresh your recollection?

9 MS. DALY: Objection.
10 Mischaracterization.

11 THE WITNESS: No.

12 Q. (Mr. Wiggins) Would not refresh your
13 recollection?

14 A. No.

15 Q. Did you have any discussion with Mr. Lacy
16 about whether or not he included any reference to the
17 circuit boards that you've identified in your
18 photographs in his report to Nationwide Insurance
19 Company?

20 MS. DALY: Objection.

21 THE WITNESS: I'm sorry. Say that
22 again, please.

23 Q. (Mr. Wiggins) Did Mr. Lacy -- did you
24 ever have any discussion with Mr. Lacy about whether
25 or not he included any reference to the circuit

1 boards that he found in the area of the location of
2 the fire?

3 A. No.

4 Q. Did you ever ask him if he had mentioned
5 that in his reports?

6 A. No. I would have considered that an
7 electrical issue that he would have just deferred to
8 me.

9 Q. Now, you did not make any mention of a
10 circuit board in your report, did you?

11 MS. DALY: Objection to form.

12 THE WITNESS: The last sentence in
13 the body would have covered that.

14 MR. WIGGINS: Wait, wait, wait. I'm
15 sorry.

16 Which -- which page are you on?

17 THE WITNESS: Page three, last
18 paragraph. Paragraph starting with four drop-in
19 fluorescent fixtures. Last -- I'm right there.

20 MR. WIGGINS: I got you. Okay.

21 THE WITNESS: Yeah, last sentence,
22 miscellaneous debris recovered from the floor around
23 the area of fire origin was inspected with no
24 evidence of electrical failure found.

25 Photograph 33 is referenced, and that's

1 the one that shows the items on the counter, so that
2 sentence covered all those items.

3 Q. (Mr. Wiggins) Miscellaneous debris
4 recovered from the floor around the area of the fire
5 origin was inspected with no evidence of electrical
6 failure found.

7 And that was referenced, the -- to the
8 miscellaneous items identified and recovered from the
9 rear drive-thru service area, photograph 33?

10 Is that what you're saying?

11 A. Yes.

12 Q. But nowhere in your report to Nationwide
13 Insurance Company do you mention the printed circuit
14 board, do you, Mr. Martini?

15 MS. DALY: Objection to form.

16 THE WITNESS: It's covered in that
17 last sentence.

18 Q. (Mr. Wiggins) Well, my question was --
19 and you mentioned it -- did you say printed circuit
20 board was found in the area of the fire?

21 MS. DALY: Objection to form.

22 THE WITNESS: Not in detail, no.

23 Q. (Mr. Wiggins) Do you not think now, upon
24 reflection, that that should have been something that
25 you should have reported to Nationwide Insurance

1 Company in the first instance in this report?

2 MS. DALY: Objection.

3 Mischaracterization of his testimony.

4 THE WITNESS: I feel I did cover it
5 in my report.

6 Q. (Mr. Wiggins) Well, how did you cover it?

7 How did you -- how did you -- other than
8 what you just told me, is there anything else that
9 would have been -- put someone on notice that there
10 was printed circuit board in that area that was
11 electrically powered?

12 MS. DALY: Objection.

13 THE WITNESS: I don't know what your
14 question is.

15 Q. (Mr. Wiggins) Was this printed circuit
16 board electrically powered in some fashion?

17 A. Well, we know that now.

18 Q. Did you know it then?

19 A. I assumed it was.

20 Q. Okay, and did you go and look where the
21 power source of that circuit board was?

22 MS. DALY: Objection to form.

23 THE WITNESS: Not having known where
24 it came from specifically, no.

25 Q. (Mr. Wiggins) Okay, and so the answer is

1 you never looked to see if there was a source,
2 electrical source, for that printed circuit board?

3 MS. DALY: Objection to form.

4 THE WITNESS: I looked at -- let's
5 say, given where we know it is now, I looked in that
6 area and the exterior end of the office area. I
7 looked at everything I could see. If the power
8 supply cord was in that area, I would have seen it.
9 If it wasn't, I didn't.

10 Q. (Mr. Wiggins) Is it possible that you
11 missed seeing the power cord to the printed circuit
12 board?

13 MS. DALY: Objection to form.

14 THE WITNESS: Not knowing what
15 condition it was in after the fire, it's possible.

16 Q. (Mr. Wiggins) You knew that Nationwide
17 Insurance Company was going to rely upon your report
18 in determining whether or not to -- whether or not to
19 either approve this loss for payment or whether they
20 were going to deny the loss for payment?

21 MS. DALY: Objection to form.

22 THE WITNESS: Typically I am looking
23 at a fire scene for subrogation purposes.

24 What the case eventually turns into, I'm
25 not aware of when I'm out there, and it's -- it's

1 really not my concern. My goal is to do what I'm
2 tasked to do.

3 Q. (Mr. Wiggins) But you knew that
4 Nationwide was going to rely upon your report in
5 whatever decisions they made in relation to this,
6 whatever it was, did you not?

7 MS. DALY: Objection to form.

8 THE WITNESS: Yes.

9 Q. (Mr. Wiggins) And it would have been
10 important for you to identify everything in the area
11 where this fire began that might have something to do
12 -- or might be a heat source where the fire might
13 have begun.

14 MS. DALY: Objection to form.

15 THE WITNESS: Yes. I did that.

16 Q. (Mr. Wiggins) Did you tag this printed
17 circuit board and identify it in any way when you
18 looked at it?

19 MS. DALY: Objection to form.

20 THE WITNESS: No.

21 Q. (Mr. Wiggins) Why didn't you do that?

22 A. Why didn't I do what?

23 Q. Why didn't you tag it and identify it in
24 some fashion?

25 MS. DALY: Objection.

1 THE WITNESS: Everything that I
2 examined on January 30th, including the items on the
3 table there, the miscellaneous items we're talking
4 about, wiring and the receptacles, etcetera,
5 everything was examined and photographed. Some of it
6 was sketched. And then I left it all in place for
7 any possible future inspections by any other
8 interested parties.

9 Q. (Mr. Wiggins) You said that you conducted
10 this investigation in accordance with -- and I
11 believe in your report you said Section 921 of the
12 NFPA, did you not?

13 A. Yes.

14 Q. And do you know what -- do you know what
15 those sections contain?

16 Are you familiar with those sections?

17 A. I'm somewhat -- I'm familiar with 921,
18 yeah.

19 Q. And one of the things 921 requires an
20 investigator to do is to tag and to identify and
21 preserve any physical evidence that's found in the
22 scene of a fire, is it not?

23 MS. DALY: Objection.

24 Q. (Mr. Wiggins) Well, you know that, don't
25 you?

1 MS. DALY: Objection.

2 Mischaracterization.

3 You can go ahead and answer.

4 THE WITNESS: Yes. And I also know
5 that preserving the scene as intact as possible for
6 any other investigators is just as important. But
7 items were all left in place and the restaurant was
8 secured when we left.

9 Q. (Mr. Wiggins) And -- but nothing was
10 identified or tagged. Is that your testimony ---

11 MS. DALY: --- Ob ---

12 Q. (Mr. Wiggins) --- To your knowledge?

13 MS. DALY Objection.

14 THE WITNESS: Correct.

15 Q. (Mr. Wiggins) Did Mr. Lacy ever tag or
16 identify any evidence that was identified that was
17 recovered from the scene?

18 A. Yes.

19 Q. What did he tag and identify?

20 A. Anything he would have collected.

21 Q. Pardon?

22 A. Anything he would have collected.

23 Q. Did you ever look at it prior to going to
24 Mr. Cavaroc's office -- lab in Raleigh?

25 A. No.

1 Q. 921 also requires that any evidence found
2 at the scene be sent to a lab for identification or
3 examination, does it not?

4 MS. DALY: Objection. It's a
5 mischaracterization.

6 THE WITNESS: Anything that he
7 collected was taken to a lab.

8 MR. WIGGINS: Pardon?

9 THE WITNESS: Anything that Mr. Lacy
10 collected was taken to a lab.

11 Q. (Mr. Wiggins) Well, this was not taken to
12 the lab, was it? This circuit board was not taken to
13 the lab?

14 A. It was not collected.

15 Q. He should have collected it, shouldn't he?

16 MS. DALY: Objection.

17 THE WITNESS: Like I stated before,
18 anything I looked at I left in place for any other
19 parties to look at.

20 Q. (Mr. Wiggins) My question was, Mr. Lacy,
21 as the primary investigator on this fire, should have
22 tagged and collected the circuit boards for further
23 identification and evidence, should he not?

24 MS. DALY: Objection.

25 THE WITNESS: If we collected the

1 circuit boards, then I would have had to collect
2 everything else that I looked at, and that would have
3 -- we would have then later been accused of
4 expoliation of evidence or spoiling the scene, so....

5 Q. (Mr. Wiggins) Well, once -- this is
6 paragraph 1610 of what you just identified as what
7 you complied with 921.

8 MS. DALY: Do you have a copy of
9 that so he can read along with you?

10 MR. WIGGINS: Don't have a copy of
11 it.

12 The only thing I can do is read it to you,
13 Mr. Martini.

14 Q. (Mr. Wiggins) It says -- this is 1610 --
15 examination, testing of physical evidence.

16 Once collected, physical evidence is
17 usually examined and tested in a laboratory or other
18 testing facility. Physical evidence may be examined
19 and tested to identify its chemical composition to
20 establish its physical properties to determine its
21 conformities or lack of conformity to certain legal
22 standards to establish its operation, inoperation or
23 malfunction to determine its design sufficiency or
24 deficiency or other issues that would provide the
25 fire investigator with an opportunity to understand

1 and determine the origin of the fire, a specific
2 cause of the fire, the contributing factors to a fire
3 spread or other responsibility for a fire.

4 Are you familiar with that section of 921?

5 MS. DALY: Can you show it to him so
6 he can -- if you're going to ask questions about it.

7 THE WITNESS: 1610?

8 MR. WIGGINS: 1610.

9 THE WITNESS: Okay.

10 (Witness examined document)

11 THE WITNESS: Okay.

12 Q. (Mr. Wiggins) You did not send this to a
13 laboratory to be tested or mark and tag it to be sent
14 to a laboratory, did you?

15 A. Yeah, I talked about ones collected.

16 Q. Pardon?

17 A. I discussed this evidence that is being
18 collected.

19 Q. Well, didn't you collect this or didn't
20 someone from your company collect it?

21 MS. DALY: Objection.

22 Q. (Mr. Wiggins) From Donan -- didn't Mr.
23 Lacy collect it?

24 MS. DALY: Objection.

25 Mischaracterization.

1 THE WITNESS: I'm not aware of him
2 collecting it.

3 Q. (Mr. Wiggins) Who told you -- who told
4 you where it came from?

5 A. Mr. Lacy did.

6 Q. Did he say that he got it there?

7 MS. DALY: Objection to form.

8 Got it where?

9 MR. WIGGINS: From the area where he
10 determined the origin of the fire to have begun.

11 MS. DALY: Objection. Asked and
12 answered.

13 THE WITNESS: Actually, I believe
14 Mr. Royal collected it.

15 MR. WIGGINS: Okay.

16 THE WITNESS: If I remember -- if I
17 remember the depositions correctly.

18 Q. (Mr. Wiggins) Do you remember him telling
19 you that, or is that just what you read from the
20 depositions?

21 MS. DALY: Objection to the form.

22 THE WITNESS: Mr. Royal was not
23 present when I looked at that earlier in the day.

24 I don't remember specifically if Mr. Lacy
25 told me he got it from there or Mr. Royal collected

1 it from there.

2 Q. (Mr. Wiggins) It would have been a good
3 idea, would it not, from your experience, to have had
4 this circuit board examined in a laboratory setting,
5 as the other evidence, to determine if there were any
6 defects in it, wouldn't it?

7 MS. DALY: Objection.

8 THE WITNESS: If it had been there
9 later to collect, that's what would have been the
10 process, yes.

11 Once I -- once I left the scene, the scene
12 was secured and not under my direction, so....

13 Q. (Mr. Wiggins) Did you develop or were you
14 asked to develop any kind of hypotheses as to how
15 this fire might have begun?

16 A. I'm only asked to examine electrical --
17 essential electrical sources of ignition and
18 determine if any of those played a role in the cause
19 of the fire.

20 Q. And did you develop any hypotheses based
21 upon that examination by you of electrical equipment?

22 A. My findings are that there's no electrical
23 source of ignition for this fire.

24 Q. When you did your investigation, were you
25 aware of the drying rack that was located adjacent to

1 the window -- the drive-in window number one at the
2 Miami Subs Restaurant?

3 MS. DALY: Objection to form.

4 THE WITNESS: Are we talking about
5 the steel rack?

6 MR. WIGGINS: The steel rack.

7 THE WITNESS: Yes.

8 Q. (Mr. Wiggins) And it's a drying rack, I
9 think, they were calling it.

10 A. Oh, yeah.

11 Q. Is that correct?

12 A. Yes.

13 Q. And did you inquire of anyone what was
14 stored on that rack?

15 A. I believe I was told -- like I said, it
16 was a drying rack for cups and plates and whatever.

17 Q. Did anyone identify to you that on that
18 rack was also these plastic cups, these styrofoam
19 cone, plates, and the wrappers, the cellophane
20 wrappers around these cups?

21 MS. DALY: Objection to form.

22 THE WITNESS: That may have been
23 mentioned. I don't know.

24 Q. (Mr. Wiggins) Was that anything that you
25 would have been interested in in making your

1 investigation?

2 A. I haven't seen sparks come from plastic
3 cups.

4 Q. And you saw some of those plastic cups at
5 Mr. Cavaroc's lab when you went there, did you not?

6 A. Yes.

7 Q. And did anybody then talk about where
8 those cups or those styrofoam plates came from?

9 A. The ones that Mr. Lacy collected?

10 Q. Right. Mr. Lacy brought to the....

11 A. I don't remember specifically. He made
12 his evidence list. It may state where those were
13 collected from.

14 Q. You now know from reading the depositions
15 that this HME -- this Ion IQ communicative device was
16 located about six and a half feet above the floor to
17 the right of the drive-thru window, do you not?

18 MS. DALY: Objection.

19 THE WITNESS: Yes.

20 Q. (Mr. Wiggins) And as a matter of fact,
21 you could see that by virtue of the fact that there
22 was a place on the wall that was not blacked out by
23 smoke or fire -- could you not -- could you not
24 identify that?

25 MS. DALY: Objection to form.

1 THE WITNESS: Yes.

2 Q. (Mr. Wiggins) Did you identify that
3 physically, yourself, or did you see it by photos?

4 A. I saw it when I was there. I didn't know
5 the significance of it till later.

6 Q. And at the time you were there, you did
7 not know the location of the HME Ion system --
8 communication system, did you?

9 A. That's correct.

10 MS. DALY: Let's go off the record
11 for a moment.

12 (12:36-1:31 p.m. - recess)

13 MR. WIGGINS: Everybody ready?
14 Back on the record.

15 Q. (Mr. Wiggins) Mr. Martini, just going
16 back for a second on a subject we were speaking about
17 earlier, and that is the -- the preservation of
18 physical evidence.

19 You said that you did not mark the circuit
20 boards. Obviously you did not do that. Do you know
21 whose responsibility that might have been?

22 MS. DALY: Objection to form.

23 THE WITNESS: Typically, evidence,
24 in my experience, is marked when it's collected.

25 Q. (Mr. Wiggins) And would the collector of

1 this evidence -- in your opinion, would it have been
2 -- I'm sorry -- would it have been Terry Lacy or Chad
3 -- Chad Royal?

4 MS. DALY: Objection.

5 MR. WIGGINS: If you know.

6 MS. DALY: Objection to the form.
7 It's a statement.

8 THE WITNESS: You're asking me if it
9 would have been the proper person to ---

10 MR. WIGGINS: --- Yes, who is the
11 proper person to -- to have collected and identified
12 and protected the physical evidence.

13 That is, in this particular case, we're
14 talking about the circuit boards.

15 MS. DALY: Objection to the form of
16 the question, to the statement.

17 THE WITNESS: Either Mr. Lacy or I
18 could have collected them once we were sure that all
19 potential interested parties were -- were done with
20 the scene.

21 Q. (Mr. Wiggins) And again, I'm going to
22 show you this paragraph here, and it's -- this is in
23 chapter 16 of 921 of the NFPA rules, which you said
24 that you adhere to and -- now, let me show you what
25 is 16.1 and read that and see if you agree with that

1 statement and if this is what generally you do.

2 (Witness examined document)

3 A. Okay, is there a question on that?

4 Q. Yeah. Whose responsibility is it to
5 collect and protect, preserve physical evidence?

6 MS. DALY: Objection to the form.

7 THE WITNESS: I'll say the fire
8 investigator is likely to be responsible.

9 MR. WIGGINS: Okay.

10 THE WITNESS: Doesn't say he is.
11 It's not his sole responsibility.

12 Q. (Mr. Wiggins) And in that case you would
13 have been one of the fire investigators?

14 MS. DALY: Objection to the form.

15 THE WITNESS: We're getting into
16 nuances of fire investigator. I'm an electrical
17 engineer, but assisting my fire investigator.

18 Q. (Mr. Wiggins) So you had been insist --
19 you had been assisting Terry Lacy ---

20 MS. DALY: --- Objection to the
21 form.

22 Q. (Mr. Wiggins) --- The origin and cause
23 investigator.

24 MS. DALY: Objection to the form.

25 THE WITNESS: Yes. And typically,

1 if we were collecting evidence, he may be collecting
2 evidence pertinent to him, I may be collecting
3 evidence pertinent to me. You know, it's not --
4 there's no hard and fast division of labor.

5 Sometimes I help their investigators
6 collect evidence and sometimes they help me.

7 Q. (Mr. Wiggins) What are the methods that
8 you're familiar with that can be used to identify and
9 protect evidence from destruction?

10 A. Say it again, please.

11 Q. What are the methods that you're familiar
12 with that are typically used by fire investigators to
13 protect it from destruction?

14 A. In particular?

15 MS. DALY: Objection to the form.

16 MR. WIGGINS: Physical evidence ---

17 THE WITNESS: --- To protect it from
18 destruction?

19 MR. WIGGINS: Yes.

20 MS. DALY: Objection to form.

21 THE WITNESS: Well, one is to secure
22 the premises, and if -- we're talking about evidence
23 that's not yet collected or about to be collected?

24 MR. WIGGINS: Already is collected.

25 THE WITNESS: If it's about to be

1 collected -- well, if it's collected, it's stored in
2 bags, boxes, cans, whatever, and stored in a secured
3 location.

4 Q. (Mr. Wiggins) The circuit boards were not
5 stored in a safe location, were they?

6 MS. DALY: Objection to form.

7 THE WITNESS: The restaurant was
8 secured when I left.

9 Q. (Mr. Wiggins) But no other -- no other
10 means of protecting it were utilized, to your
11 knowledge?

12 MS. DALY: Objection to form.

13 THE WITNESS: They were left as I
14 found them.

15 Q. (Mr. Wiggins) And you found them on the
16 table?

17 A. Yes.

18 Q. Do you have any idea who would have had
19 any -- well, strike that.

20 Do you now know that those circuit boards
21 were no -- are no longer in existence, or they cannot
22 be found.

23 Do you know that?

24 A. Yes.

25 Q. Do you know who would have had any motive

1 to remove or take those circuit boards?

2 A. I was not aware of anything like that.

3 Q. Have you ever heard anyone, referring to
4 Mr. Lacy, speculate as to how they got missing?

5 MS. DALY: Objection to form.

6 THE WITNESS: I didn't understand.

7 Q. (Mr. Wiggins) Did any -- did you ever
8 have any conversation with Mr. Lacy about how he
9 thought they might have gotten missing?

10 A. No. We showed up in November, and it was
11 gone, along with -- along with most of the place.
12 Same time the DVR was discovered missing.

13 Q. I'm sorry? The DVR?

14 A. That's the same date the DVR was
15 discovered missing, so a number of things had
16 disappeared.

17 MR. WIGGINS: Was that -- excuse me.
18 Let me just find -- what was that -- 46?

19 MR. McLEAN: 46A?

20 MR. WIGGINS: 46B.

21 MR. McLEAN: Go off the record a
22 second.

23 (1:39-1:41 p.m. - recess)

24 (* Exhibit 46B was marked *)

25 Q. (Mr. Wiggins) Can you identify that

1 document, Mr. Martini?

2 A. Yes. It's my report.

3 Q. And what's the date of that report?

4 A. June 28, 2013.

5 Q. And at whose request did you prepare that
6 report?

7 A. Rachel Daly.

8 Q. Okay, and is she counsel for Nationwide
9 Insurance Company?

10 A. Yes.

11 Q. And this document was prepared as an
12 expert report to counsel. Is that correct?

13 A. Yes.

14 Q. And this document says you examined the
15 fire scene at 552 North McPherson Church Road,
16 Fayetteville, North Carolina, on January 30th, 2012.

17 And that was -- that was contained in your
18 original report that had been made back in May of --
19 on May 23rd, 2012.

20 And then you added November 16th, 2012,
21 November 29th, 2012.

22 Those were the other two dates that you
23 were at the scene? Is that correct?

24 A. Yes. Yes, sir.

25 Q. What was the purpose for you being there

1 on November 16th and November 29th, 2012?

2 A. November 16th is when PWC was put on
3 notice, I believe, and so we were -- we were notified
4 of -- John Cavaroc was representing PWC and was going
5 to the site that day. We were notified that he would
6 be present, so we wanted to be present as well.

7 Q. And was the fire -- was that evidence
8 examined at John Cavaroc's office on April the 17th,
9 2013?

10 MS. DALY: Objection to form.

11 THE WITNESS: Mr. Cavaroc collected
12 evidence on November 29th.

13 Q. (Mr. Wiggins) And when was it examined in
14 his office -- at his laboratory?

15 A. April 17th ---

16 Q. --- And you were present ---

17 A. --- 2013.

18 Q. And you were present at that meeting?

19 A. Yes, I was.

20 Q. And the bottom of that page says that the
21 fire -- says that the electrical supply to the
22 building did not cause or contribute to the fire.
23 The electrical supply is intact. There was no
24 physical evidence which indicates change or failure
25 to that supply. And there were no reported

1 electrical problems preceding the fire.

2 That was contained in your original
3 report, was it not?

4 A. I don't have that in front of me, but --
5 well, in so many words, yes, it's covered.

6 Q. And then, dropping down in the second page
7 of your report that was made in June 28th, 2013, on
8 number three you've got no evidence of electrical
9 failure was identified in or around the area of the
10 fire origin that could have served as ignition source
11 to the fire. And in your original report this
12 appears in the summary of the conclusion section.

13 Why did you change that back into the
14 section as an opinion?

15 MS. DALY: Objection.

16 THE WITNESS: I don't understand
17 your question.

18 Q. (Mr. Wiggins) Well, in the first report
19 that you made, if you look at it -- do you have the
20 first report in front of you?

21 A. I do.

22 Q. It was -- on the last page you had that as
23 a -- as a summary of conclusion.

24 You see that?

25 A. Yes.

1 Q. You say no evidence of electrical failure
2 was identified in or around the area of the fire
3 origin that could have served as ignition source for
4 the fire, and -- but in this report you put it in a
5 different section. Why was that?

6 MS. DALY: Objection.

7 MR. WIGGINS: It's under your
8 opinions now.

9 MS. DALY: And so that it's clear
10 for the record, on the June 28th were referencing his
11 federal -- the expert report ---

12 MR. WIGGINS: --- Correct.

13 MS. DALY: --- In compliance with
14 the federal rules ---

15 MR. WIGGINS: --- Correct.

16 MS. DALY: --- Versus just the
17 letter prior to litigation.

18 MR. WIGGINS: Correct.

19 MS. DALY: You can answer if you
20 understand.

21 THE WITNESS: It qualifies them both
22 -- I don't....

23 MR. WIGGINS: I'm sorry?

24 THE WITNESS: I mean, there's no --
25 there's no heading for conclusions in the federal

1 report.

2 MR. WIGGINS: Okay.

3 THE WITNESS: Just statement of
4 opinions.

5 Q. (Mr. Wiggins) When you wrote this report
6 did you know where the area of the fire origin was
7 that could have served as ignition source for the
8 fire?

9 MS. DALY: Which report? The
10 federal expert report?

11 MR. WIGGINS: Yeah, the federal
12 expert report.

13 MS. DALY: Okay.

14 THE WITNESS: You're asking me, when
15 I wrote the federal expert report, did I know where
16 the origin of the fire was located?

17 MR. WIGGINS: Right.

18 THE WITNESS: Yes.

19 Q. (Mr. Wiggins) Okay, and did you know when
20 you wrote the federal report where the Ion IQ
21 communication device was located?

22 A. Yes. Based on our testimony, yes.

23 Q. And did you write this report with the
24 knowledge of its location -- that is, the location of
25 the Ion IQ communication device -- at the time this

1 report was written?

2 MS. DALY: Objection. Asked and
3 answered.

4 THE WITNESS: You're asking me if I
5 knew where it was installed when I wrote the report?

6 MR. WIGGINS: Yes.

7 THE WITNESS: Where it was
8 originally installed?

9 MR. WIGGINS: Where it was
10 originally installed.

11 THE WITNESS: Yes.

12 Q. (Mr. Wiggins) And you didn't know that
13 when you wrote the report to Nationwide Insurance
14 Company back in 2000 -- June of -- May of 2012.

15 A. That's correct.

16 Q. And in this report you talk about, in
17 paragraph six on the second page, a base station
18 reported to be part of the HM -- Electronics, Inc.,
19 HME, Ion IQ drive-thru audio system was reported to
20 have been installed on the wall near the top right
21 corner of the rear drive-thru window.

22 That's what you learned after you wrote
23 the initial report in May of 2012?

24 A. That's correct.

25 Q. And you only learned this through reading

1 the depositions of Jimmy Diamantopoulos and others
2 who have talked about the location of that system?

3 A. Yes.

4 Q. And you never learned about that either
5 from Terry Lacy, nor did you learn about it from Chad
6 Royal?

7 MS. DALY: Objection to the form.

8 THE WITNESS: Was that a question?

9 MR. WIGGINS: That's a question.

10 THE WITNESS: That's correct.

11 Q. (Mr. Wiggins) And it says, inspection --
12 then you go on down in the middle of that section,
13 you say, inspection of the recovered printed circuit
14 board revealed no evidence of electrical failure,
15 which would have been indicated by localized and
16 isolated heat damage to the printed circuit board
17 material.

18 And we talked about it earlier, and you
19 said you saw nothing to the naked eye that would
20 indicate any problem with that circuit board.

21 Is that your testimony?

22 A. Yes.

23 Q. The circuit board was heavily damaged, was
24 it not, Mr. Martini?

25 MS. DALY: Objection to the form.

1 Q. (Mr. Wiggins) It was heavily damaged,
2 wasn't it?

3 A. It was heavily ---

4 MS. DALY: --- Objection to the
5 form.

6 THE WITNESS: Heavily heat damaged,
7 yes.

8 Q. (Mr. Wiggins) And the plastic casing on
9 that had been completely dissolved and burned away,
10 had it not?

11 A. It was not recovered, so I'm assuming it
12 was.

13 Q. There was no cover on the circuit boards
14 when you saw it. No plastic covering at all.

15 A. That's correct.

16 Q. And you recovered one large, by
17 comparison, circuit board, and two small circuit
18 boards?

19 A. I didn't recover anything. I was ---

20 Q. --- Well, I'm sorry -- that you saw on the
21 -- on the shelf that you looked at when you were
22 there?

23 A. Yes.

24 Q. And I think we've already established you
25 made no notes as to exactly what you saw on that day.

1 Is that correct?

2 A. Correct.

3 Q. But you just recalled now, having gone
4 back some time afterwards, that you saw no localized
5 isolated heat damage to that printed circuit board?

6 MS. DALY: Objection to the form and
7 mischaracterization of his testimony.

8 Q. (Mr. Wiggins) Well, you straighten me
9 out.

10 A. Well, so in other words, if I had seen
11 something noteworthy, I would have made a note of it.

12 Q. But I think we've already established that
13 in order to determine whether or not there is any
14 malfunction or any damage to that circuit board, it
15 should have been examined by x-ray in a laboratory
16 setting, should it not?

17 A. No, it ---

18 MS. DALY: --- Objection.

19 THE WITNESS: We did not ---

20 MS. DALY: --- Mischaracterization
21 of his testimony.

22 Q. (Mr. Wiggins) We did not establish that?

23 A. No.

24 Q. What would be the correct way of
25 determining with some degree of certainty whether or

1 not there was any damage to that circuit board that
2 could have caused or generated heat have been
3 sufficient to have caused the fire?

4 A. To have generated heat sufficient to cause
5 the fire, you would see that damage with the naked
6 eye with a thorough examination.

7 Q. You would not have -- what do you base
8 that upon?

9 A. Experience, and including the report that
10 you guys are referring to about the low voltage which
11 causes a fire.

12 When they show a circuit board that fails
13 to the point of causing a fire, they -- they have
14 photos of damage, you know, including holes in the
15 board, pieces of the board missing. I would expect
16 to find the circuit traces melted apart.

17 I mean, in that report they talk about
18 electrical activity consuming copper traces. You
19 know, I didn't see any of that.

20 Q. Did you make any notes of that when you
21 looked at the board?

22 A. No.

23 Q. And did you not notice any holes in that
24 board when you looked at it?

25 A. There were no holes ---

1 Q. --- There were no holes?

2 A. --- From localized heat damage, no.

3 Q. If Mr. Small said that he saw holes in
4 that circuit board, would he be wrong about that?

5 MS. DALY: Objection to form.

6 THE WITNESS: I don't know what he's
7 seen.

8 Q. (Mr. Wiggins) If he said he saw holes in
9 that board, would he be -- would you disagree with
10 him?

11 MS. DALY: Objection to form.

12 THE WITNESS: Depends on what kind
13 of holes he seen.

14 Q. (Mr. Wiggins) If he saw -- if he -- on
15 that board he saw dark spots that would have
16 indicated that there were areas on that board that
17 could have been -- that could have been caused by --
18 let me read exactly what he said to be sure I'm not
19 mischaracterizing.

20 MS. DALY: And we'll make a general
21 ongoing objection to anything referencing Mr. Small.

22 MR. WIGGINS: Trey, do you have that
23 report?

24 MR. McLEAN: Small?

25 MR. WIGGINS: Yeah. I know where it

1 is. I'm sorry. I think I know where it is.

2 Did I mark it -- did I mark that letter
3 that I got from James Small this morning? Did we
4 have it marked?

5 MS. DALY: No.

6 MR. McLEAN: No, not to my
7 knowledge. I don't think you did. I don't think
8 it's been produced this morning.

9 Let's go off the record a second.

10 (1:55-1:57 p.m. - recess)

11 Q. (Mr. Wiggins) In the report of Mr. Small,
12 he says if any of the dark areas contained carbonized
13 material, they represent sites of possible competent
14 ignition.

15 Would you agree or disagree with that, Mr.
16 Martini?

17 MS. DALY: Objection.

18 THE WITNESS: Say that again.

19 MR. WIGGINS: Okay.

20 Q. (Mr. Wiggins) Mr. Small, when he looked
21 at the photographs, the digital photographs that were
22 taken by you of the circuit board, his comments to
23 that was as follows.

24 If any of the dark areas -- which you
25 identified was on the -- on your photograph --

1 contained carbonized material, they represent sites
2 of possible competent ignition.

3 MS. DALY: Objection.

4 Q. (Mr. Wiggins) Would you agree or disagree
5 with that?

6 A. Neither one.

7 Q. Okay, on photograph number two you have --
8 he says if any of the dark four circled areas -- and
9 I'll show you this in a minute -- contain carbonized
10 material, the photograph depicts points of ignition,
11 the ignition may or may not have been a competent
12 ignition source.

13 Would you agree or disagree with that?

14 A. Let me see that.

15 (Witness examined document)

16 MS. DALY: Objection to the form.

17 THE WITNESS: Well, what's not clear
18 to me is when he says it depicts points of ignition,
19 is that ignition from within the board or ignition
20 due to attacking fire?

21 MR. WIGGINS: I'm sorry?

22 THE WITNESS: Is it points of
23 ignition on the board due to the board failure or
24 attacking fire? That's not clear to me.

25 Q. (Mr. Wiggins) In either case, what would

1 be your answer to that?

2 MS. DALY: Objection to form.

3 THE WITNESS: I disagree until I
4 have a better idea what he's trying to say.

5 Q. (Mr. Wiggins) And in photo number three
6 of his report he says, photo three -- and I'll show
7 you this in just a moment.

8 If any of these 14 nylon standoffs (sic)
9 are, quote, thermally, end quote, near an ignition
10 source on the PCB, they will often allow the ignition
11 source to prove itself a competent ignition source.

12 I ask if you agree or disagree with that
13 statement?

14 MS. DALY: Objection.

15 THE WITNESS: I mean, I think
16 they're all just general statements.

17 MR. WIGGINS: Pardon?

18 THE WITNESS: These are general
19 statements -- often allow. It depends on the flame
20 rating of the nylon.

21 Q. (Mr. Wiggins) Do you know what the flame
22 rating of the nylon was?

23 A. I do not.

24 Q. Okay. And the last photograph he had was
25 photo ---

1 A. --- Just for the record, I did talk to the
2 manufacturer and I asked them for flame ratings, but
3 they wouldn't give it to me.

4 Q. Photo number four depicts an area -- he
5 says in his notes depicts an area of the printed
6 circuit board that could have contained a competent
7 ignition source.

8 And he has circled the top of that board
9 and the location where it was found, apparently by
10 either Mr. Lacy or Mr. Royal.

11 MS. DALY: Objection.

12 THE WITNESS: Again, I have to go
13 back to the big picture here.

14 The first -- first sign of a printed
15 circuit board failing in an appliance would be if the
16 appliance stops working or it malfunctions in some --
17 some manner. There's no report of that, even up to
18 four a.m. that morning, so there's no indication of
19 any ongoing or developing electrical failure within
20 that device.

21 And to reach a point where we have enough
22 material involved to produce a fire, you're going to
23 -- you're going to end up with a hole in the board
24 just like their report shows, and we don't have that,
25 either.

1 Q. (Mr. Wiggins) Suppose that it had just
2 generated excessive heat and would have been near an
3 ignition source -- to wit, cellophane....

4 MS. DALY: Objection.

5 MR. WIGGINS: Or a first load. I'm
6 sorry, a first load.

7 MS. DALY: Objection.

8 THE WITNESS: Again, there's no --
9 there's no evidence of a small scale or large scale
10 failure in that device.

11 Q. (Mr. Wiggins) And would not you have had
12 to examine that in an x-ray setting or in a
13 laboratory setting by x-ray to determine exactly
14 whether or not there was any damage to that circuit
15 board or not?

16 MS. DALY: Objection. Asked and
17 answered.

18 THE WITNESS: No.

19 Q. (Mr. Wiggins) You do not think so?

20 A. No.

21 Q. And you think your casually looking at it
22 when you made the examination, not knowing where it
23 was or where it came from, was sufficient to make a
24 determination that it could not have been the source
25 of -- could not have been an ignition source in this

1 fire?

2 MS. DALY: Objection.

3 THE WITNESS: I don't treat any part
4 of my work casually.

5 Q. (Mr. Wiggins) Well, you didn't know where
6 it came from, did you?

7 MS. DALY: Objection.

8 Mischaracterization of his testimony.

9 THE WITNESS: It's irrelevant. I
10 still looked at it.

11 MR. WIGGINS: Pardon?

12 THE WITNESS: I still inspected it
13 and I still examined it, both sides.

14 Q. (Mr. Wiggins) Okay, when you say you
15 examined it, did you pick it up and look at it or
16 just look at it visually?

17 A. I picked it up and looked at it.

18 Q. Okay.

19 A. I would have had to have looked at both
20 sides.

21 Q. And beyond just a visual examination you
22 made no other examination of it?

23 MS. DALY: Objection.

24 THE WITNESS: That's correct.

25 Q. (Mr Wiggins) But in the ordinary course

1 of events, had you known at the time that this
2 circuit board came from the exact location or pretty
3 near the location where Mr. Lacy identifies being the
4 area of the source of this fire, which would you not
5 have sent it to a laboratory to have it examined?

6 A. The process ---

7 MS. DALY: --- Objection.

8 THE WITNESS: --- Would have evolved
9 to what we did on November 29th. It would have all
10 been collected then.

11 MR. WIGGINS: Okay.

12 THE WITNESS: That was the intent,
13 leave it there for all parties and then collect it
14 later.

15 Q. (Mr. Wiggins) No other person, to your
16 knowledge, ever confirmed your findings about the
17 circuit board, did they?

18 MS. DALY: Objection.

19 THE WITNESS: I'm not aware of
20 anyone.

21 Q. (Mr. Wiggins) Why did you feel compelled,
22 Mr. Martini, to make a detailed statement about the
23 Ion IQ device in your second report -- expert report
24 -- and did not make it in your initial report?

25 MS. DALY: Objection to form.

1 THE WITNESS: I think we already
2 covered that. In my first report I wasn't aware what
3 it was.

4 Q. (Mr. Wiggins) And then you also, in the
5 last page of your report, said the Class II supplies
6 are energy limited and intended primarily to provide
7 power to the low voltage electrical devices. The
8 energy limiting characteristic of the Class II power
9 supply intend to minimize fire entering, initiation
10 potential or provide acceptable protection from
11 electrical shot -- shock.

12 I notice that you did not go further and
13 say that Class II power supplies never can be the
14 source of a fire ignition, did you?

15 MS. DALY: Objection to form.

16 THE WITNESS: That's correct.

17 Q. (Mr. Wiggins) Okay, are you now aware
18 that sometimes that they can be a ignition source?

19 MS. DALY: Objection to form.

20 THE WITNESS: Am I now aware?

21 MS. DALY: Mis ---

22 Q. (Mr. Wiggins) --- Were you then aware
23 that -- were you then aware that it could be the
24 source of -- an ignition source?

25 A. I've always been aware.

1 Q. You read last night the deposition of
2 Steven Booth, did you not?

3 A. Yes.

4 Q. And he said that he could not rule out
5 this Ion IQ communication device as being a source of
6 the fire.

7 Do you recall him saying that?

8 MS. DALY: Objection to form.

9 THE WITNESS: Yes.

10 Q. (Mr. Wiggins) And he said the reason was
11 because the only thing that he knew was that the
12 plastics had been identified as being on the shelf
13 very near the Ion IQ.

14 Was that what you recall him saying?

15 MS. DALY: Objection.

16 THE WITNESS: That's what he said,
17 and he's -- he's basing his entire theory on the
18 styrofoam being near.

19 You know, we've already had one example of
20 -- per Ms. Moon -- is that her name?

21 MR. WIGGINS: Mrs. Moon.

22 THE WITNESS: Yeah, Mrs. Moon -- she
23 had said that the -- the bread cart was -- had been
24 moved since she left at four in the morning, so
25 nothing to say that any of these other materials

1 didn't get moved as well. So I don't think we can
2 base locations of where she last saw things as a
3 statement of fact.

4 Q. (Mr. Wiggins) Is there any other
5 statement that you've read from any source, from any
6 person, any deposition, that would indicate there was
7 any styrofoam products, any plastics of any sort,
8 anywhere than on the top shelf of that drying rack?

9 MS. DALY: Objection.

10 THE WITNESS: Those were the
11 statements from the last person that saw it, the last
12 employee.

13 Q. (Mr. Wiggins) And would not be -- would
14 not that be the best evidence, in your opinion, of
15 where the location of those items were at the time of
16 the fire?

17 MS. DALY: Objection.

18 THE WITNESS: Well, the bread cart
19 moved and nobody seems to know how it moved, so....

20 Q. (Mr. Wiggins) I don't understand what the
21 bread cart has to do with it.

22 What did -- how does that ---

23 A. --- It's an example of how things changed
24 from the last time an employee left the building.

25 Q. But there had been firemen in that

1 building, had there not, prior to that time -- prior
2 to anybody seeing the change in the bread cart?

3 MS. DALY: Objection.

4 THE WITNESS: Firemen had been in
5 there, yes.

6 Q. (Mr. Wiggins) Okay, and they could have
7 moved it, couldn't they?

8 MS. DALY: Objection.

9 THE WITNESS: Not based on the fire
10 patterns.

11 Q. (Mr. Wiggins) They couldn't have moved
12 the bread cart?

13 MS. DALY: Objection. Asked and
14 answered.

15 THE WITNESS: To the window?

16 MR. WIGGINS: No, no.

17 Q. (Mr. Wiggins) When they went in to
18 suppress the fire, couldn't they have moved the bread
19 cart?

20 MS. DALY: Objection. Asked and
21 answered.

22 THE WITNESS: From the front window
23 to the back window?

24 MS. DALY: Objection to the form.

25 Q. (Mr. Wiggins) Who said it was moved from

1 the front window to the back window? Do you recall?

2 A. Ms. Moon.

3 Q. And to be sure I understand what you're
4 saying, you're saying that if the bread cart were
5 moved -- were moved from the spot where Mrs. Moon
6 said it was to a different spot at or about the time
7 of the fire, then the styrofoam plates and the
8 plastic cups and the plastic knives and plastic forks
9 could have also been moved?

10 Is that what you're saying?

11 MS. DALY: Objection to form.

12 THE WITNESS: I'm saying that's
13 possible.

14 Q. (Mr. Wiggins) Is there any evidence that
15 that happened, that you are aware of?

16 A. No.

17 Q. And had you believed that those items were
18 on the shelf at the time of the fire, and had you
19 known that this Ion IQ was on the wall within six
20 inches of where those items were located, would you
21 not, then, not been able to rule out the Ion IQ as a
22 potential source of this fire?

23 MS. DALY: Objection to form.

24 THE WITNESS: My ruling out of the
25 Ion IQ wireless device was not based on proximity to

1 other materials.

2 Q. (Mr. Wiggins) Okay, but if it had been --
3 I'm saying if it had been -- is it possible for that
4 device to have overheated and set fire to the
5 plastics encasing those items?

6 MS. DALY: Objection to form.

7 THE WITNESS: Not without leaving
8 some evidence of having done so.

9 Q. (Mr. Wiggins) What evidence would you
10 have been looking at to find out that they did do so?

11 A. Well, we've already covered that. You
12 know, specific localized damage to the printed
13 circuit board.

14 Q. And you would be, then, discounting the
15 findings of Mr. Small when he looked at the circuit
16 board photographs?

17 MS. DALY: Objection.

18 THE WITNESS: He spoke in general --
19 I'm sorry, what?

20 MS. DALY: Objection to make it
21 clear that -- one, object to Mr. Small -- anything
22 about Mr. Small, and make it clear that Mr. Martini
23 was not provided a report from Mr. Small.

24 MR. WIGGINS: You can go ahead and
25 answer.

1 THE WITNESS: Well, I don't know
2 what else is in -- is in the report that you might be
3 referring to.

4 Q. (Mr. Wiggins) The mythology (sic) that
5 was used by Mr. Lacy was a process of elimination to
6 determine the source of this fire. Is that correct?

7 MS. DALY: Objection.

8 Will you repeat back that question,
9 please.

10 (Next-previous question was read back)

11 MS. DALY: Thank you.

12 Same objection.

13 MR. WIGGINS: You can go ahead and
14 answer.

15 THE WITNESS: I'll let Mr. Lacy
16 address that.

17 Q. (Mr. Wiggins) Did he ever talk to you
18 about that, how he determined the cause of this fire?

19 A. I'm not -- I'm aware of what he's doing,
20 but I'll let him discuss that.

21 Q. And do you know that he classified this
22 fire as an incendiary fire?

23 A. Yes.

24 Q. Did he tell you that back on the 30th of
25 January, 2012, that it was his belief it was an

1 incendiary fire?

2 A. January 30th? I don't recall.

3 Q. Okay.

4 A. It was still under investigation at that
5 point.

6 Q. Was it still under investigation on
7 February 22nd, 2012?

8 A. I thought we were talking about January
9 when I was there.

10 Q. What about February the 22nd, 2012?

11 A. I don't know what the significance of that
12 date is.

13 Q. On January the -- February 22nd, 2012, Mr.
14 Lacy wrote a letter to Michael Jezierski in which he
15 said, per our conversation of February the 1st, 2012,
16 I have completed the fire scene examination of the
17 Miami Subs restaurant at 552 North McPherson Church
18 Road, Fayetteville, North Carolina. Electrical
19 engineer Henry Martini, P.E. -- that's you, is it
20 not?

21 A. Yes.

22 Q. Examined the fire scene on January the
23 30th, 2012.

24 And that's correct, is it not?

25 A. Yes.

1 Q. And concluded that the -- after that
2 examination, that the fire was not a result of the
3 failure of the structural electrical components of an
4 appliance in the building. This fire is incendiary
5 in nature.

6 Do you recall that? Do you remember that?

7 A. I was not ---

8 MS. DALY: --- Objection.

9 THE WITNESS: I was not copied on
10 that.

11 Q. (Mr. Wiggins) Did he talk to you about
12 this?

13 A. No.

14 Q. Did you authorize him to say to Michael
15 Jezierski of Nationwide Insurance Company that the
16 fire was not the result of the failure of the
17 structural electrical components of an appliance in
18 the building?

19 MS. DALY: Objection to form.

20 THE WITNESS: That's what I informed
21 him on the 30th.

22 Q. (Mr. Wiggins) You advised him of that on
23 the 30th of January, 2012?

24 A. When I finished my inspection, yes.

25 Q. And was all of the investigation of the

1 fire complete at that point in time, to your
2 knowledge?

3 A. My initial scene examination was
4 completed.

5 Q. Did you write any letter to Mike -- to Mr.
6 Jezierski in reference to that matter?

7 A. I did not.

8 Q. So that I'm fairly clear about this, Mr.
9 Martini, what you would be testifying to a jury in
10 this case is that, in your opinion, the Ion IQ system
11 did not fail and could not have been the source of
12 ignition for this fire.

13 Is that your testimony?

14 A. That's correct.

15 Q. Is it also your testimony that the ballast
16 of the fluorescent light system could not have been
17 the source of this fire -- could not have been an
18 ignition source for this fire?

19 A. That's correct.

20 Q. And is it your testimony that none of the
21 wiring in the building could have been a source of
22 ignition for this fire?

23 A. That is correct.

24 Q. Were you involved in taking any samples
25 from the fire scene to determine if there were any

1 accelerants present?

2 A. I was not.

3 Q. Were you aware that it had been done by
4 someone on behalf of Donan?

5 A. Yes.

6 Q. And would that have been Mr. Lacy?

7 A. Yes.

8 Q. And do you know -- did you ever learn that
9 -- the results of that?

10 A. At some point I did hear that the results
11 were negative.

12 Q. Did Mr. Lacy ever discuss with you the
13 results of the information that was on the -- on the
14 hard drives that were taken from the restaurant?

15 A. At some point I was told it was point of
16 sale information. I don't remember who told me.

17 Q. Did Mr. Lacy tell you that?

18 MS. DALY: Objection. Asked and
19 answered.

20 THE WITNESS: Like I said, I don't
21 know. I don't remember who told me.

22 MR. WIGGINS: Okay, I think we're
23 about through. Let me just check this.

24 Go off the record.

25 (2:21-2:23 p.m. - recess)

1 MR. WIGGINS: One more thing and I'm
2 through.

3 Q. (Mr. Wiggins) In looking at the circuit
4 board that you included in your second report, Mr.
5 Martini, you said that the circuit board -- the color
6 on the circuit board was uniform, which would
7 indicate that the fire was uniform. Is that correct?

8 MS. DALY: Objection.

9 It was included in both reports.

10 MR. WIGGINS: Okay, I took this from
11 the rec -- I took this from the last report.

12 MS. DALY: Okay.

13 THE WITNESS: You asked me if the --
14 if my saying that the heat damage to the printed
15 circuit board was uniform ---

16 MR. WIGGINS: --- Correct.

17 THE WITNESS: --- Does that imply
18 that the fire was uniform?

19 MR. WIGGINS: Yes.

20 Q. (Mr. Wiggins) You explained -- you were
21 saying earlier on that this fire was uniform across
22 the circuit board, did you not?

23 A. I said the heat damage.

24 MS. DALY: Objection.

25 MR. WIGGINS: The heat damage to the

1 board was uniform.

2 Q. (Mr. Wiggins) I want to know what you're
3 speaking about when you say that -- from that
4 photograph.

5 A. The board material was evenly burned off
6 and any coatings that they put on the board is
7 uniformly burned off.

8 In other words, the heat damage does not
9 extend deeper into the board at any particular place
10 -- i.e., no holes or openings.

11 Q. Okay, what are the dark spots that are
12 identified on that board -- that I can see on the
13 board?

14 MS. DALY: Objection.

15 THE WITNESS: It's just board
16 material.

17 Q. (Mr. Wiggins) What kind of board
18 material?

19 A. Printed circuit boards are a laminate
20 material of -- well, it depends on what that
21 particular manufacturer used. Generally it's like
22 layers of glass fiber coated with various materials.

23 Q. What is the dark spot that I'm pointing to
24 right here?

25 A. That's a -- I believe that was a piece of

1 debris that was laying on the board.

2 Q. Do you know that's what it was, or was it
3 something else?

4 A. I'm pretty sure that's what it was. I
5 would have moved it to look at -- look at it in
6 greater detail.

7 Q. Okay.

8 A. Just like the other smaller boards are
9 laying on it, but that's just as I found it.

10 MR. WIGGINS: I believe that's all I
11 have.

12 MS. DALY: Let's go off the record.

13 (2:27-2:30 p.m. recess)

14 MS. DALY: I don't have any
15 questions.

16 Thank you.

17 MR. WIGGINS: Thank you.

18 WHEREUPON,

19 at 2:30 o'clock p.m. the deposition was adjourned.

20

21

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25

1 CERTIFICATE OF TRANSCRIPT

2 I, Cassandra J. Stiles, Notary Public in
3 and for the County of Forsyth, State of North
4 Carolina at Large, do hereby certify that there
5 appeared before me the foregoing witness;

6 That the testimony was duly recorded by
7 me, reduced to typewriting by me or under my
8 supervision and the foregoing consecutively numbered
9 pages are a complete and accurate record of the
10 testimony given at said time by said witness;

11 That the undersigned is not of kin nor
12 associated with any of the parties to said cause of
13 action, nor any counsel thereto, and that I am not
14 interested in the event(s) thereof.

15 IN WITNESS WHEREOF, I have hereunto set my
16 hand this the 29th day of August, 2013.

17 Cassandra J. Stiles, CVR
18 Certified Court Reporter
19 Atlantic Professional Reporters
20 Post Office Box 11672
21 Winston-Salem, NC 27116-1672
22
23
24
25

1 CERTIFICATE OF OATH

2 I, Cassandra J. Stiles, Notary Public in
3 and for the County of Forsyth, State of North
4 Carolina at Large, do hereby certify that there
5 appeared before me the foregoing witness;

6 That the witness personally appeared
7 before me at the date, time and location hereon
8 captioned and was personally sworn by me prior to the
9 commencement of the proceeding in the matter hereon
10 captioned.

11 IN WITNESS WHEREOF, I have hereunto set my
12 hand this the 29th day of August, 2013.

13 Cassandra J. Stiles, CVR
14 Certified Court Reporter
15 Atlantic Professional Reporters
16 Post Office Box 11672
17 Winston-Salem, NC 27116-1672
18
19
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WITNESS CERTIFICATION

I, L. HENRY MARTINI, P.E., hereby certify:

That I have read and examined the contents of the foregoing testimony as given by me at the time and place hereon indicated, and;

That to the best of my knowledge and belief, the foregoing pages are a complete and accurate record of all the testimony given by me at said time, except as noted on the Attachment A hereto.

I have ___ have not ____

made changes/corrections _____

L. Henry Martini, P.E.

I, _____, Notary Public for the County of _____, State of _____, hereby certify:

That the herein-above named appeared before me this the _____ day of _____, 19____, and;

That I personally witnessed the execution of this document for the intents and purposes as herein-above described.

Notary Public

My Commission Expires:

(SEAL)

1 ADDENDUM A

2 Upon reading and examining my testimony as
3 herein transcribed, I make the following additions,
4 changes and/or corrections, with the accompanying and
5 corresponding reason(s) for the same:

6

7 Page Line Is Amended to Read

8 _____|_____|_____

9 _____|_____|_____

10 _____|_____|_____

11 _____|_____|_____

12 _____|_____|_____

13 _____|_____|_____

14 _____|_____|_____

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16 _____|_____|_____

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18 _____|_____|_____

19 _____|_____|_____

20 _____|_____|_____

21

22

23 _____
Stephen Edward Stone

24

25

1 CERTIFICATE OF MAILING

2 I, Cassandra J. Stiles, CVR, do hereby certify
3 that a true copy of the transcription of the matter
4 hereon captioned was served on the party named below
5 by the placement of said transcript copy in the
6 United States Mail, Priority Mail delivery, with
7 proper postage affixed, addressed as follows:

8
9
10 L. Henry Martini, P.E.
11 c/o Gemma L. Saluta, Esq.
12 One West Fourth Street
13 Winston-Salem, NC 27101
14
15

16 This the 31st day of August, 2013.
17
18

19 _____
20 Cassandra J. Stiles, CVR
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